

# IN RESPECT TO REALITIES

A REPORT ON FEDERALISM IN 1975

ADVISORY  
COMMISSION ON  
INTERGOVERNMENTAL RELATIONS

April 1976



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Washington, D.C. 20575  
(202) 382-2114

**M-103**

# PREFACE

**A**n inevitable consequence of the traumatic events of 1974 upon our federal system and our attitudes towards government, its officials, and its programs, was a turn to introspection. In 1975, the need for introspection was confirmed by the major opinion samplers who, almost unanimously, reported a shaken confidence, not in the system itself but rather in our elected leaders.

The self-questioning trend was further strengthened by still another crisis: the virtual financial collapse of our country's largest city — New York. In 1972, this Commission completed a study entitled *City Financial Emergencies*. The study originally was designated "Municipal Bankruptcy," but the title was changed because the Commission thought that the term bankruptcy was too harsh — and unrealistic. Yet, only three years later, New York City came within hours of default on its obligations and is still deep in that crisis, even after last minute aid from Washington.

In 1975, slowly but inexorably, we began to analyze how it came to pass that we were where we were. Some actions resulted. The Congress implemented key parts of a budget reform process which for the first time gives it a way to examine overall federal spending and to make choices and assign spending priorities. The Congressional budget reform process and the

increased involvement of state and local officials in the preparation of the Administration's budget have led to an increased understanding of the interrelationships between federal, state, and local taxing and spending policies. Such understanding could lead eventually to a much-needed national fiscal policy.

Presidential candidates in both parties are questioning the long-prevalent notion that dollars alone will solve any problem. And frank discussions began about "new" national economic facts, including contrasting problems of the "old, mature" cities of the Northeast to the apparent advantages of the "new" Southern Rim. Two key concepts endorsed by ACIR received much attention as national assumption of some welfare costs became a reality, and the review of all federal programs on a regular basis was introduced in Congress with bipartisan support. The effects of public employee salary increases and pension fund contributions on government spending no longer were forbidden topics, and even the phrase "national planning" was uttered once again by federal policymakers and others.

A proposal to reassess our ability to make decisions in our federal system of divided re-

sponsibilities — and then implement them — gained serious currency in the form of a proposed Bicentennial Commission on American Government, a recommendation which this Commission has endorsed.

Yes, 1975 was indeed a year of introspection. The question, of course, was whether this questioning of old hypotheses would continue as the economy improved and the severe shock of our deepest recession since the Great Depression wore off. One can only hope that it will, and that it might result in a much-needed reallocation of our limited national resources, not only within the public sector but also between private and public spending. Important in all this is the emerging realization that our national resources are not unlimited, as many once had thought.

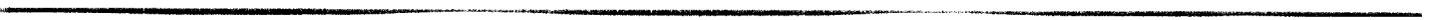
The following summary of major happenings in *Federalism 1975* represents one view of the year. Each of the 26 members of ACIR would bring a different perspective to these fast-moving events. Therefore, none need accept responsibility for this summary in its entirety.

**Robert E. Merriam,  
Chairman**



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# INTRODUCTION

***This is not a time to be thinking of creating new programs. It is a time for thrift, not out of fear for the future, but in respect to realities.***

Governor Cecil Andrus of Idaho  
*1976 State of the State Address*

**T**he near default of the nation's largest city overshadowed other intergovernmental events during 1975, a year that was fiscally bleak for most state and local governments. The federal government, in an effort to deal with the worst recession in 40 years, incurred a record deficit and simultaneously worried about stimulating further inflation. Hence, 1975 was marked at all levels of government by fiscal austerity or strain.

There was a reluctance to pass new programs and a tendency to reexamine the old; a rejection of new taxes, new bond programs, and new constitutions; and a subtle hardening of public sentiment toward labor union demands, social services spending, and the belief that government action is the best solution to problems.

Many states and local governments faced the hard decision to raise taxes or reduce spending. They often did both. The federal government also refrained from initiating broad — and expensive — programs.

Economic conditions — and the accompanying fiscal caution of the voters and their representatives — were the backdrop for certain emerging trends that dominated the year:

- The gap between those states with budget surpluses and those facing

serious revenue shortfalls became much greater during 1975.

- Persistent inflation exacerbated the fiscal imbalance among the three levels of government at a previously unknown pace.
- There was an increased tendency toward Federal involvement in state and local fiscal affairs.
- Heavy emphasis was placed on evaluation of existing programs rather than initiation of new and different areas.
- A heightened awareness of inter-governmental issues and an increased concern about the assignment of financing responsibilities and operating responsibilities of governments also characterized the year.

Over the past few years, the demand for fuel and food has greatly enriched the coffers of the states which produce those items. In contrast, during 1975, the industrialized states were hit very hard with the inflation and accompanying recession to the point where many are currently experiencing painful financial difficulties. The gap between the currently fortunate and unfortunate is a wide one. Minnesota, for example, ended Fiscal Year 1975 with a surplus of \$400 million. At the same time, governors of Massachusetts, Connecticut, and New York, among others, were both forced to cut back services and to suggest tax increases. These states and others in the industrial Northeast and Midwest, that are not part of the so-called "Southern Rim," sought means to improve their business climates. Both New York and Wisconsin have recently changed their corporate income tax laws with reference to firms that have large plants and payrolls within their borders but make most of their sales out-of-state. And New York's commerce commissioner released a strategy program that includes personal income tax cuts in the highest brackets and further tax credits for plant expansion.

The interstate disparity was mirrored at the national level in the difficulty Congress had in

dealing with national goals in the sensitive areas of energy and the economy, particularly with such issues as decontrol of natural gas, public service employment, and aid to New York City.

Another fiscal disparity was evident among the levels of governments in their revenue raising capacity. The federal government profits from inflation since taxpayers are pushed into higher brackets and the government reaps a large, tax harvest. The Congressional Budget Office assumes a 6 percent inflation and 6 percent real growth over the next five years, and it estimates that the federal personal income tax collections will rise from \$135 billion in 1976 to \$330 billion in 1981 without any changes in the tax law. States with income and sales taxes also fare reasonably well during inflation. The local governments are the big losers with their unresponsive property tax. The public is taking an increasingly dim view of taxing unrealized capital gains on the home they want to live in, not sell. And, to compound the problem, state legislatures are enacting more and more homestead exemptions, assessment freezes, and tax lids.

Partially as a result of this disparity, the federal government considered involvement in several areas of state-local finances.

One area where a tendency for federal involvement is appearing is in the municipal bond market. As a result of the New York City-New York State financial crisis, at least some state and local governments were forced to sell their bonds at higher interest rates (costing them millions of dollars), and some, including, Yonkers, New York City, New York State, and the Pennsylvania Housing Financing Agency were unable to market their bonds at all when underwriters failed to bid on them. Full disclosure also became a hot issue when New York City and a few other issuers did not fully disclose all material facts to investors. The City of Richmond, State of Ohio, and Allegheny County (Pennsylvania), suffered problems in selling bonds due to disclosure problems. These difficulties spawned much discussion of the need for change. The Congress considered several proposals to establish reporting and disclosure requirements for state and local government issuers and to provide a taxable subsidized bond option for states and localities. Fur-

thermore, hearings began in the House on federal regulation of state and local pension systems.

The state of the economy — and its impact on those states with high unemployment — provided the impetus for another key trend apparent at the federal and state-local levels: a rethinking of new programs and reassessment of the old.

There were no new block grants, and very few significant categorical grants, passed in 1975. Yet there was major activity to determine the actual impact of existing programs. Three block grants, the *Omnibus Crime Control and Safe Streets Act*, the *Housing and Community Development Act of 1974*, and the *Comprehensive Employment and Training Act of 1973*, were closely examined to determine their impact on the structure and functions of local government and to make recommendations on improving their effectiveness. Efforts were also made to insure that these programs were not additionally burdened with unduly restrictive regulations, and recommendations were offered by ACIR and others that current restrictions be removed in subsequent legislation.

General revenue sharing was another area where Congressional caution was evident. National groups representing state and local officials made a major effort to get the program renewed in 1975. Their purpose in urging expeditious passage was two-fold: to assure general revenue sharing's exemption from new Congressional budget timetables and regulations and to allow states and local governments the lead time they need for orderly planning of use of those funds in their own budgets. Revenue sharing legislation has not yet passed, however, although hearings were held and numerous studies were published on the workings of the law during its first four years.

One major new legislative proposal that was postponed due to the national economic concerns was national health insurance, which in 1974 was a legislative objective of the Ford Administration and many Congressional leaders alike. Economic conditions in 1975 made passage of such a far-reaching and expensive bill almost impossible.

Hand-in-hand with this cautiousness went the increased use of priority-setting devices

during the year at the federal and state level. One of the most promising efforts at the federal level was the implementation of the first phase of the Congressional budget process, to be fully operational in 1976. During 1975, the House and Senate passed two budget resolutions setting a limit on spending for Fiscal Year 1976. Both Houses rejected several bills that would have caused them to exceed their spending targets.

The final trend apparent in 1975 — increased interest in and concern for intergovernmental issues — is also closely tied to the economic conditions and resultant responses. The increased interest in intergovernmental affairs can be illustrated in four areas:

It became clear to many at the federal level in 1975 that states and local governments must be more involved in managing the economy. For many years, the three levels have operated quite independently in the economic area. Too little interest was exhibited at the national level as to how federal programs actually impacted on — or intermeshed with — state and local expenditure levels, revenues, goals, and needs. Today the impact of federal actions on those economies is becoming a more vital concern to national decisionmakers.

One way the federal government can stimulate the economy is to pump money into state and local governments. Such stimulation could come through passage of public works programs, counter cyclical grants, or extension of the *Comprehensive Employment and Training Act*. The Congress considered these options in 1975 and passed legislation to provide money for each. An extension of CETA and a major bill providing \$6 billion for public works jobs and counter cyclical aid were vetoed by the President. The Congress and the Administration did agree during the year to aid the private sector through tax cuts.

Block grants became a focal point for both evaluation of current programs and suggestions for new efforts. They also were a source of some controversy in 1975, as proponents of the grants urged removal of some current "strings" on the programs and fought against any further restraints on the recipients' use of

program funds. Opponents urged passage of categorical grants which they said better met the needs of the poor and minority groups. One minor block grant (Partnership for Health) was renewed during 1975, but the major attention was focused on the *Safe Streets Act*, *Comprehensive Employment Training Assistance Act*, and the *Housing and Community Development Act of 1974*. At the end of 1975 and early in 1976, the Ford Administration supported several new major block grants in the areas of health, education, energy, and social services. In his State of the Union message, President Ford called for a new "balance" in the federal system — "a balance that favors greater responsibility and freedom for the leaders of our state and local governments." The fate of these proposals is uncertain, at best, in a Congress where there is still some skepticism of state and local governments' abilities to decide priorities and follow through with meaningful programs.

And finally, the year highlighted a key inter-governmental functional question — which level of government can do what the best? Welfare was the foremost concern in 1975 with federal, state, and local governments studying their own roles and making recommendations for the system's improvement. Many proposals supported a federal takeover of welfare costs.

So the year was one of belt-tightening and re-evaluation. Even those states with surpluses were cautious about spending their extra money. Perhaps the most revealing comments about 1975 were made in early 1976 in the various "state of the state" messages across the country. These were grim indeed.

Michigan Governor William G. Milliken was typical in his view: "This year, as last year, we will have to deal with a depressed economy by appropriating wisely and managing well. There is no room for waste, or even for an overly generous definition of what is essential."

# THE NEW YORK FISCAL CRISIS

**T**he possible default of the nation's largest city occupied the attention of policy-makers, the news media, and citizens for most of 1975. Teetering on the brink of bankruptcy for months, New York got a reprieve through a combination of federal, state, and local actions as the year ended. Still, even with this unprecedented intergovernmental cooperation, few predicted the problem was solved.

The fallout of the New York City crisis was felt by states and local governments across the nation. The most immediate effects of the situation, such as the increase in interest rates for many state and local borrowers, were of primary concern to policymakers. Yet the impact on the American federal system was also a prime issue.

It is the intergovernmental chronology, causes, impact, and implications of the New York fiscal crisis which we will highlight in this chapter.

## **The Intergovernmental Chronology**

The New York City fiscal crisis was precipitated when the city was no longer able to

borrow money in the municipal market, but the roots of the problem go back to numerous actions and inactions over the last decade and more. New York State has traditionally exercised limited oversight over activities of its largest city. Thus the city's fiscal and budgetary problems were largely ignored or unnoticed by the state until they were so massive that even the city and state working together were unable to solve them.

Throughout 1975, the state assisted in many ways. First it provided loans to the city, then it set up agencies to sell the city's securities and to oversee the city's financial operations. Late in the year, the state passed a tax package to raise funds earmarked for the city.

When various state actions floundered or proved inadequate, attention turned to the federal government for possible assistance. The President met with New York's state and local officials, and the Congress held hearings on the situation to assess its seriousness and consider possible federal action. Late in 1975, after demonstrated self-help actions by the state to increase taxes and by the city and state agencies to cut spending and thereby ameliorate future budgetary problems, the President recommended and Congress authorized seasonal federal loans for the city for a three-year period.

## Intergovernmental Causes

Many of New York's problems are shared by other central cities, principally in the Northeast and Midwest, but in some other regions as well. The broad issues affecting these cities, as expressed by their mayors and other elected officials include:

- City costs have escalated with inflation, and revenues are down due to the recession and an eroding tax base resulting from flight from the cities.
- Public employee wage and benefit costs have increased substantially. There has been too much state intervention in areas where cities feel they

should have freedom; too little where cities need help.

- Federal categorical grants requiring state and local matching funds have sometimes led to use of local funds in areas where the need is marginal at best. Instead of following their own priorities, the governments are drawn to federal programs by the federal money and sooner or later are saddled with substantial local costs.
- Court cases have sometimes prohibited cities and states from cutting back on services in times when they have become overly burdensome on the budget.

One major problem plaguing New York City that is not common among other large cities has been the city's poor budgetary practices and accounting systems. New York used capital funds for non-capital expenditures and inflated revenue estimates that were the basis for short-term borrowing. The most devastating practice was that of borrowing snowballing amounts to cover operating deficits. This short-term borrowing led to a debt nearly 11 times as large as it was five years ago. Long-term borrowing increased nearly three times during the same time. Zooming interest costs took 16 cents out of each dollar of the city's budget in 1975.

These budgetary practices, one must note, often resulted from a conscious choice — articulated to the citizens many times — that New York City would provide for its poor, would educate its young, and give traditional — and some untraditional — services to its people, no matter what. Former New York City Mayor Robert F. Wagner expressed it this way in his 1965 budget message: "I do not propose to permit our fiscal problems to set the limits of our commitments to meet the essential needs of the people of this city."

Theodore H. White, writing in *New York Magazine*, further expounded the philosophy when he called New York, "The City of the Soft Touch." "The city wants more; it loves to give more," he said. "Yet, in New York, good will

has not only run its course, but sped beyond all legal or social speed limits.”

## Intergovernmental Impact and Implications

The major impact of the New York City fiscal crisis on other cities and states came in the form of increased interest rates on their bonds and notes. The average municipal bond yield in November 1973, was 5.17 percent. In November 1975, it was 7.52 percent. The New York crisis certainly was not the only, or even the major, cause of the rapid increase — a general increase in interest rates and increased federal borrowing were among other factors that pressed interest rates upward. However, the New York fiscal situation definitely affected municipal interest rates (particularly those on lower quality issues).

Oregon’s Senate President Jason Boe, in an article in *State Legislatures*, estimated the New York crisis cost his state at least \$156,000 per year in additional interest on one of their Triple A bond issues in the summer of 1975. “In a state whose total biennial budget barely exceeds New York City’s annual expenditures for welfare, charity, and debt services alone, that represents a bundle of the taxpayers’ money,” he said.

The small Tennessee town of Murfreesboro, which recently floated bonds for capital improvements, had its interest rates go up at least a half percentage point. On that basis, Murfreesboro is paying \$20,000 a year extra — which averages about \$1 on each local property assessment.

According to a staff summary prepared for the House Committee on Banking, Currency and Housing, Oregon and Murfreesboro were lucky — they at least obtained funds, although at a higher price. Many borrowers were crowded from the market, the report said.

A *New York Times* article estimated that New York City’s problems could cost municipal and state governments an extra \$3 billion for a single year of borrowing money at swollen interest rates. That amounts to \$14 for each person in the United States.

The Joint Economic Committee calculated that the New York crisis will cost state and local governments \$1 billion over a ten-year period in increases in interest on their bonds.

The immediate problem has been partially assuaged and the immediate impact assessed. But key intergovernmental questions remain unanswered.

- Should states bear, and are they financially capable in all cases of bearing, the full responsibility for providing assistance to their local governments in dire financial trouble?
- What is the federal role, if any, in assisting states and local governments in financial trouble?
- Should the federal government regulate state and local bond sales or can this responsibility be left with the states and/or the issuers?
- Is there a federal role in regulating state-local pension systems?
- Is there a better alternative to tax-exempt bonds for state and local governments and how should this market be strengthened?
- Should the *Federal Bankruptcy Act* be amended to deal with the adjustment of any future debts of states and local governments?

A further look at each is in order.

**State Role in Future Financial Difficulties.** In 1973, the Advisory Commission on Intergovernmental Relations made a series of recommendations aimed at preventing or alleviating city financial emergencies. The crucial role in implementing these recommendations belongs to the states: they should be responsible for warding off fiscal crises of their cities by close supervision and guidance and for providing a mechanism for immediate action should fiscal problems arise.

The Commission recommended that every state:

- designate or establish a single state agency responsible for improving local financial management functions such as accounting, auditing, and reporting;
- enact and strictly enforce legislation to regulate the use of short-term operating debt that carries beyond the end of the fiscal year; and
- establish by statute a set of guidelines to determine when the financial condition of local governments necessitates state intervention and to set forth the procedures for carrying out remedial state action.

The fact that New York State was unable to solve its largest city's crisis alone does not invalidate the ACIR recommendations that were based on the conclusion that the states have the necessary capacity except in the event of a major depression. New York State could have prevented the New York City emergency and rendered any necessary assistance if it had taken appropriate legislative and supervisory actions earlier.

New York's situation does painfully remind us that most states have not exercised fully adequate supervision of their local governments, and that, in cases of emergency, the federal government will come under strong pressure to intervene in some fashion.

**Federal Role in Future Financial Difficulties.** Further research should be undertaken to determine when and in what way the federal government would again provide assistance to a financially strapped city.

The key issue is one of constitutionality: how much should the federal government get involved in the day-to-day operations of a city. A second key issue is whether the states under all circumstances, including recessions of varying depths, have the financial capacity to cope with all such emergencies, provided they establish good detection and supervision practices.

Joseph Califano, Jr., former assistant to President Lyndon B. Johnson, in an article in the *New York Times* discussed the Constitutional question in a piece headlined "Presi-

GovernoMayor." He asked the question: Is it in the best interest of our nation for the President to become the mayor of New York City and the governor of New York State? "For that is certainly what millions of New Yorkers, Mayor Beam, and Governor Carey seem to be begging him to do," he said.

**Regulation of State and Local Bonds.** In 1975, Congress brought municipal bond dealers under federal regulation with enactment of *Securities Amendments Act*. This action also made municipal bonds subject to Rule 10b-5 of the *Securities and Exchange Act* that makes it "unlawful" to make any untrue statement of a material fact or to omit to state a material fact in public sales of securities.

The amendment to the law holds investment bankers responsible for disclosures but exempts cities and states from the registration and reporting requirements of the securities law.

The law has resulted in some confusion over what information should be provided to municipal bond investors. One means to clarify what information is needed would be a federally imposed uniform system of financial accounting and reporting by state and local issuers which sell a substantial amount of securities in the capital markets. This plan has been proposed by the Ford Administration.

A further step in federal control would be a passage of a bill pending in Congress sponsored by Senator Thomas Eagleton which calls for cities and localities to register new bond issues with the Securities and Exchange Commission. Still another option under consideration is legislation requiring municipal issuers to supply information to investors. A bill co-sponsored by Senators Harrison Williams and John Tower would require issuers of specified amounts of securities to prepare annual financial reports and distribution statements but would not require the filing of the documents with the Securities and Exchange Commission.

Many cities and states oppose these and other moves calling for federal regulation of their bonds. The Municipal Finance Officers Association has developed full-disclosure guidelines and other elements of a plan that presumably would rely on the states or a voluntary association of issuers for implementation.

**State-Local Pension Systems.** The New York crisis has highlighted the need for intensive scrutiny of state-local pension systems. Many provide inordinately expensive benefits, are underfunded, or have suffered from poor administration and abuses. The crisis has also underscored that the ultimate cost of certain benefits, particularly if inflation continues at a high rate, will be monumental and in some cases beyond the financial capacity of the governments involved.

Some states are currently moving in the direction of ACIR's recommendations on this point: strict state regulation of locally administered retirement systems, or alternatively, consolidation of local retirement systems into a state-administered system.

There is some consideration of extending current federal law regulating private pension systems to cover state and local employee systems. Most state and local governments object to such a proposal. Hearings have been held — but further action is awaiting results of a House study to be completed at the end of 1976.

**Alternatives to Tax-Exempt Municipal Bonds.** Over the past few years, state and local governments have received several sharp reminders that the market for their bonds at reasonable interest rates has grown more and more unreliable. The problems besetting the municipal bond market include:

- the tax exemption is only attractive to a limited number of potential investors (primarily commercial banks, fire and casualty insurance companies and high-income individuals), and

- the municipal bond market is subject to cyclical instability. When money is tight and interest rates rise, tax exempt rates rise faster than taxable rates.

In addition, there is the well known tax equity problem: those most attracted to tax-exempt bonds are the wealthy who should not have this preferential shelter.

The most frequently discussed alternative to the tax-exempt municipal bond is the taxable subsidized bond. Interest on such a bond would be taxed, but the Treasury would pay a large enough portion of the interest so that the issuer would break even or enjoy a small gain. Such a taxable subsidized bond would compete in the market with all other types of taxable securities and therefore would be of interest to a much broader range of purchasers. This proposal would also eliminate the long-standing tax inequity associated with exempt bonds.

Several bills providing for some sort of taxable municipal bond are currently before the Congress. Two related bond market proposals are also under consideration. One would provide insurance on tax-exempt municipal bond offerings; and the other would establish an intergovernmental RFC or Urbank, which would borrow on the taxable market and relend to states and municipalities on an advantageous basis.

**Federal Bankruptcy Laws.** The Advisory Commission on Intergovernmental Relations recommends amendment of the federal bankruptcy laws to make the procedures for municipal bankruptcies — financial reorganizations — more workable. President Ford proposed such amendments late in 1975, and indications are that the legislation will pass in 1976.

# THE ECONOMY

**A**lthough the impact of the New York crisis was quite significant, the effect of the national economy in 1975 on other states and local governments was much more universal and substantial.

The combination of inflation and recession affects state and local governments by greatly increasing prices for goods they must purchase and by raising personnel costs. Revenue growth slacks off as the real growth rate declines and unemployment takes its toll. Higher unemployment requires additional state and local expenditures for welfare and other social services. Since most states and local governments are restricted in the amount of debt they can incur, and most are prohibited by their constitutions from operating at a deficit, revenue shortfalls must be made up by cutting services, reducing work forces, or raising taxes. These actions in turn tend to worsen the recession.

## **Federal-State Spending**

In general, state and local spending tends to rise and fall with the economy while federal spending levels and the associated deficits or surpluses are in part determined by fiscal policy or economic stabilization objectives.

Over the last two years, the spending growth rate of the states has fallen sharply according to ACIR calculations. When corrected for inflation, state and local spending for the first three quarters of 1975 (exclusive of federal aid) increased over the comparable period in 1974 by only 0.3 percent. This figure is the lowest rate of increase in state and local spending from own sources in 25 years. The previous year's increase had been 1.7 percent while the increase from 1972 to 1973 was 6.2 percent.

Between Fiscal Year 1974 and 1975, the states' average expenditures increased by 15 percent, but their revenues increased only 10 percent, according to a survey conducted for the National Governors' Conference. The same NGC estimates indicate that from Fiscal Year 1975 to 1976, expenditures will increase by 10 percent and revenues by only 8 percent.

State and local combined efforts to adjust budgets will remove around \$6.9 billion from the economy in 1975, according to figures issued in December by the Joint Economic Committee's Subcommittee on Urban Affairs. Some \$3.6 billion of the \$6.9 billion total is in increased taxes; \$3.3 in reductions in expenditures from current service levels.

During 1975, 20 states increased major taxes (individual and corporate income and general sales taxes). Even more reduced current levels of service.

At the local level, the Joint Economic Committee study found that 122 of the 140 governments surveyed entered Fiscal Year 1975 with a combined surplus of \$340 million, which is expected to be a deficit of \$40 million by the end of the fiscal year. In high unemployment areas, 47 percent of the surveyed jurisdictions raised or planned to raise taxes and 61 percent reduced or planned to reduce service levels. In low-unemployment areas, only 25 percent raised or planned to raise taxes and 38 percent reduced levels of services. The 140 local governments studied in the sample included 43 with populations in excess of 500,000; 23 with populations between 250,000 and 500,000; 22 with populations from 100,000 to 250,000; and 52 with populations less than 100,000.

A survey of cities and towns in Rhode Island reflected the high unemployment there. Conducted in late 1975, the study found that half of the cities surveyed imposed some kind of ceil-

ing on their 1975-76 budgets. About one-third indicated they had postponed capital improvements and the replacement of equipment previously scheduled. Over half instituted hiring freezes in 1975. Two-thirds said property tax receipts were lower than in previous years.

During 1975, federal expenditures rose 10.6 percent over 1974. Much of this increase can be attributed to accelerated outlays for food stamps, unemployment compensation, and public welfare payments, made necessary by the recession, and to a stepup in federal grants for highway construction and pollution abatement, in part to provide additional employment in the hard-hit construction industry.

## Interstate Differences

Yet 1975 was not a bad year uniformly. In fact, seven states reduced tax rates or enacted major exemptions, deductions, or credits. At least two states increased their sales tax credit against the state income tax; four states increased the income tax credit for low-income taxpayers or for such things as medical and dental expenditures; and one state repealed its supplemental income tax.

The states that enacted such tax relief were in one of two categories: farm states or energy producing states. The eight states with income based heavily on agriculture began Fiscal Year 1976 with a surplus of \$0.8 billion according to the Joint Economic Committee. The 13 energy producing states entered the 1976 Fiscal Year with a combined surplus of \$1.8 billion.

Several of these states with surpluses have used these funds to aid their harder pressed local governments. Iowa, for instance, appropriated funds for interest free loans to counties to use as matching money for Highway Trust Funds prior to the lifting of the matching requirements. Several states set up mini-CETA operations which provide funds for manpower at the local level.

In contrast, the 18 states with the highest unemployment rates began the 1976 fiscal year with a relatively small total surplus — \$0.4 billion — which is especially meaningful when compared to their surplus beginning Fiscal Year 1975 of \$2.3 billion. This grouping of

states is an important one since it includes several states with the largest budgets.

According to the National Governors' Conference, the energy producing states had year-end balances equal to nearly 18 percent of expenditures in Fiscal Year 1975. The agricultural states had balances of more than 13 percent of 1975 expenditures. The high unemployment states had balances of less than 1 percent of their 1975 expenditures.

New York State's problems have been discussed. Other states with budgetary problems in 1975 were Illinois, Massachusetts, and Michigan.

In June, Illinois made a 6 percent across the board cut in Fiscal Year 1976 appropriations in order to save \$330 million. By October, the state was facing a liquidity problem that threatened the state's ability to meet all its financial requirements.

Massachusetts eliminated over 2,600 state positions during 1975 and still had to borrow \$450 million to meet obligations for Fiscal Year 1975. The state then had to increase taxes to repay those loans. Major new taxes were expected to balance the budget for Fiscal Year 1976.

In October, Michigan projected a \$300 million deficit for Fiscal Year 1976. Most state agency budgets were cut 3.5 percent — in addition to a previously announced cut of 1.5 percent.

## Local Cutbacks

Local governments too were feeling the economic pinch throughout 1975. Detroit, for example, laid off 550 policemen, 300 firemen, and 800 other municipal employees when it had to prune \$23 million out of its budget by July 1.

The Atlanta City Council ordered a five day unpaid vacation for all its workers in mid-1975. New Britain, Connecticut, put half its employees on a four-day work week, and Cleveland laid off over 1,000 city employees and cut garbage collection to every other week.

Some cities, including Detroit and New York City, reduced the visiting hours of city museums and other cultural exhibits. Construction projects were halted in many areas of the country.

There are some, including David T. Stanley of

the Brookings Institution, who believe that this rethinking on size of work force and types of machinery needed to efficiently operate a city can be beneficial.

"Nobody says anything about the fact that most local governments have laid off hardly anybody in a couple or three decades," he said in a speech before the National League of Cities' Congress of Cities in December 1975. "To the extent a bureaucracy is swollen rather than meeting legitimate needs, it can take a reduction with less pain to the citizens than otherwise be the case."

## Federal Action

Alternative federal responses to the economic conditions of 1975 that were considered included: measures to stimulate spending in the private sector, accelerated public works, public service employment, and anti-recession grants to state and local governments.

In 1975, the Congress was most successful in passing legislation utilizing the first response: stimulating spending in the private sector through tax cuts. It passed two bills, one in the spring and an extension in December, providing for a reduction in federal revenues through individual and business tax cuts, and partially offsetting increases in taxes on the oil industry. Among provisions of the early bill were a 10 percent rebate on 1974 individual income taxes up to a maximum of \$200; an increased low-income allowance (a minimum standard deduction designed to free poverty level families from paying federal taxes); an increased standard deduction for 1975; a refundable 10 percent tax credit up to \$400 on earned income of \$4,000 or less for a family with at least one dependent child; a 5 percent credit up to \$2,000 against taxes for the purchase of a newly built home; and various business investment tax credits.

The individual tax cuts totalled \$18.1 billion and business tax cuts \$4.8 billion. Oil industry tax increases amounted to \$2 billion.

In December, the Congress passed a six-month tax cut extension that continued 1975 reductions at an \$8.4 billion level through June 30, 1976. The law also contained language making a conditional commitment to hold

down outlays if the tax reductions were extended past June 30.

A major bill to provide for public works and counter cyclical grants to state and local governments was passed by the Senate in late 1975 and held over for expected early House action in 1976. This bill would authorize \$2.5 billion for state-local public works projects and \$500 million for the Job Opportunities Program (Title X of the *Public Works and Economic Development Act*). It also would provide \$1.5 billion for counter cyclical grants to state and

local governments with high unemployment. A Presidential veto appeared likely in late 1975 since President Ford had often expressed his view that such public service spending was inflationary.

In the final area, public service jobs, the Congress passed a bill to provide nearly a million "emergency" jobs which was vetoed by the President and later sustained in the Congress. Other bills to provide jobs through the public sector were under consideration at the end of the year.

# ENERGY

One of the main factors dividing states into those with surpluses and those with deficits in 1975 was their energy producing ability. Those states that had the oil and gas resources were, along with a few farming states, the only states with sizable surpluses during the year.

While the development of a national energy policy was stymied by the complexities of the issue and by divisions within the Congress and between the Congress and the President, one major energy bill became law at the end of 1975. The bill, *The Energy Policy and Conservation Act of 1975*, calls for:

- continuation of federal controls in the pricing of domestic oil for at least three years with provision of a new pricing formula for domestic oil designed to roll back the current price;
- authorization of government audits to verify information submitted to federal agencies by energy producers and distributors;
- authorization for the President to ration petroleum in emergency situations and to enter into international energy sharing arrangements; and

- establishment of mandatory fuel efficiency standards for new automobiles.

Another key feature of the new law is an authorization of \$150 million for a block grant program to be administered by the Federal Energy Administration to assist states in the development and implementation of state-administered energy conservation programs. The legislation identifies these programs: lighting and energy efficiency standards for, and restrictions on, the hours of public buildings; promotion of carpooling and use of public transit; and thermal efficiency and insulation requirements for new and remodeled buildings. Within federal guidelines, states can establish conservation programs tailored to local economic, geographic, and weather conditions.

Two key bills in the area of coastal zone management were passed by the Senate and are expected to pass the House in the second session of the 94th Congress.

The *Coastal Zone Management Act Amendments* would provide impact aid funds to states where coastal areas are adversely affected by outer continental shelf development or the development of other major energy facilities. The Senate-passed bill provides for grants and loans to affected coastal states in the amount of \$200 million.

A second bill, the *Outer Continental Shelf Management Act*, would establish policy guidelines for the development of the outer continental shelf, including the requirement that the Secretary of Interior establish a five-year leasing program. In addition, the bill would provide governors from coastal states with greater authority in the development of the outer continental shelf.

Several other energy measures were considered and held over for the second session of the 94th Congress. These included a program of loan guarantees to commercial businesses to encourage production of synthetic fuels; amendments to the 1970 *Clean Air Act* changing timetables for compliance with pollution limits on cars and industrial plants; a bill setting up a regulatory system for screening and controlling toxic chemicals entering the environment; and deregulation of natural gas.

The House Interior Committee declined to report a federal land use bill, and a bill providing for federal regulation of strip mining was vetoed by the President and sustained in the House.

## State-Local Action in Energy

Meanwhile, at the state and local levels, the trend toward passage of energy conservation legislation which began in 1974 continued.

During the year, states:

- imposed strict conservation measures on state facilities, buildings, and equipment and encouraged similar programs for local governments;
- provided public education and information on energy programs and solutions;
- reviewed energy impacts of all state programs;
- supported mass transit and carpooling programs;
- passed state building code legislation; and
- passed legislation and worked with utility commissions to determine whether alternative rate structures in different areas would promote conservation without unacceptable adverse impacts on the economy of a state or area.

In addition to these broad areas, several states provided for some state or local control over siting of oil refineries and nuclear plants. The nation's most stringent control over nuclear plants was passed during the year in Vermont where legislative approval is required before any construction may begin on such facilities.

Massachusetts passed a law giving that state's Energy Facilities Siting Council authority to approve sites for onshore facilities resulting from offshore development.

In Connecticut, a local referendum must be held in the town in which construction of an oil refinery is planned, according to a 1975 law.

# INTERGOVERNMENTAL AID: BLOCK GRANTS

In Fiscal Year 1975, federal aid to state and local governments totalled nearly \$54 billion — an increase of nearly \$8 billion over Fiscal Year 1974. Estimates of likely Fiscal Year 1976 spending in this area predict another \$6-10 billion increase.

In 1975, nearly \$19 billion of the \$54 billion total went into grants for payments to individuals: unemployment, Medicaid, housing payments, public assistance, and food stamps. The largest single purpose was Medicaid at \$6.8 billion in 1975.

Of the remaining \$34.9 billion, the largest groupings of expenditures were: education (\$4.7 billion), commerce and transportation (\$5.9 billion), community and regional development (\$3.3 billion), revenue sharing and general purpose fiscal assistance (\$6.9 billion), manpower (\$3.17 billion), social services (\$3.2 billion), and natural resources (\$2.5 billion).

As significant as the numbers are, the packaging of federal aid may prove to be more meaningful in the long run. This packaging has shifted somewhat over the past few years away from specialized functions through categorical grants toward block grants and general revenue sharing.

In Fiscal Year 1975, nearly 10 percent of the total federal aid went to block grants; around 14 percent to general revenue sharing. The rest

— and largest amount — went to categoricals. However, only ten years ago, categoricals accounted for nearly the entire amount — 98 percent. Yet even with the advent of general revenue sharing and block grants and slippage in percentage of total amount of aid, categorical grants are still growing in number, and now total over 600.

The block grant as originally envisioned would authorize federal aid for a wide range of activities within a given area and give recipient governments substantial discretion in identifying problems and designing programs to deal with them. It would also keep conditions associated with grants to a minimum, yet promote certain broad national goals.

The five programs currently recognized as block grants fulfill these qualifications in varying degrees.

The very first block grant, Partnership for Health, passed in 1966, has been greatly reduced in importance over the years through subsequent attachment of categorical grants to the program. The block grant component has become one small part of what is essentially a string of categorical grants contained in the 1975 *Special Health Revenue Sharing Act*.

*The Omnibus Crime Control and Safe Streets Act*, passed in 1968, was a new program which attempted to provide maximum discretion to state and local governments in the criminal justice area. Yet, it too has had certain “categorized” programs added.

Two recent block grants, the *Comprehensive Employment and Training Act* and the *Housing and Community Development Act*, were formed as consolidations of existing programs. The final block grant, Title XX, replaces the old system under which states provided services to needy recipients. The current program has a ceiling on federal outlays and outlines clientele categorization but does provide the states considerable discretion in the area of program review.

## Partnership for Health

The first block grant, the *Comprehensive Planning and Public Health Services Amendments* — more commonly known as the *Partner-*

*ship for Health Act* — consolidated nine categorical public health service formula grants and seven project grant programs into one. The law called for each state to submit a plan for comprehensive health planning which designated a single state agency to administer the planning and approve federal grants to areawide health planning agencies.

The block grant portion of the law, Title 314 (d), provided grants to state health and mental health authorities with a mandate that 70 percent of the funds be passed through to local health departments.

In legislation passed in 1975, the so-called *Special Health Revenue Sharing Act*, the block grant portion was authorized funding at a somewhat modest \$100 million for Fiscal Year 1976 and \$110 million for Fiscal Year 1977. Section 314 (d) makes up only one small part of the law which also contains authorization for specific programs such as community health and mental health centers, rodent control, national health service corps, rape prevention and control, and migrant health.

## The Safe Streets Act

*The Omnibus Crime Control and Safe Streets Act of 1968* was the first truly comprehensive block grant program established by the Congress.

Unlike other block grants which were consolidations of previously existing programs, the *Safe Streets Act* was the first major federal effort in the criminal justice field. It vests substantial discretion with the states and local governments to assist their efforts in reducing crime and improving the administration of justice.

The program will expire at the end of 1976 and thus was the object of oversight hearings during late 1975. The Advisory Commission on Intergovernmental Relations conducted an extensive study of the program and made a series of policy recommendations.

Among findings of the study were that:

- LEAA has “raised the consciousness” of elected officials and the general public to the crime problem and the needs of the criminal justice system;

LEAA funds have been used for many activities that otherwise would not have been possible; and

- most governors, legislators, and criminal justice officials believe that the federal role in providing broad assistance in this area is appropriate and that availability of Safe Streets dollars, to some degree has helped curb crime.

Yet, on the other hand, the findings revealed that:

- only a handful of state planning agencies (responsible for planning and distribution of funds) have developed close working relationships with governors and legislators;
- state planning agencies have devoted the vast majority of their efforts to distributing Safe Streets funds and to complying with LEAA procedural requirements but have not become integral parts of the state-local criminal justice system; and
- excessive turnover in the top management of LEAA and the state planning agencies has resulted in policy inconsistencies, professional staff instability, and confusion as to program goals.

The ACIR meeting in November 1975, urged the Congress to "purify" the act by removing or refrain from adding strings, and giving states and local governments maximum flexibility, within the block grant framework, to determine the best means to meet the needs of their constituents in the broad area of criminal justice.

The Commission also recommended that Congress pass legislation to:

- remove present corrections and juvenile justice categories and refrain from further efforts to earmark funds for particular services or interests; provide for the allocation of funds to major cities and urban counties in a

simplified manner so that those jurisdictions can submit one plan for the approval of state planning agencies alleviating the need for further applications for specific projects (a "mini" block grant approach); and

- assure that the Law Enforcement Assistance Administration develop meaningful standards and performance criteria against which to determine the extent of comprehensive state criminal justice planning and funding and more effectively monitor and evaluate state performance against those standards and criteria.

In addition, the Commission urged the state planning agencies to give greater attention to the needs of the courts in planning and funding and to encourage their participation on supervisory boards. The Commission recommended stronger gubernatorial and legislative roles in the planning, funding, and evaluation of the Safe Streets program, and strengthened state planning agencies by integrating them into the total state criminal justice efforts.

The Ford Administration supports renewal of the program with some increase in authorization levels and the addition of an advisory committee to review discretionary grant awards.

## **The Comprehensive Employment and Training Act**

In 1973, Congress passed the *Comprehensive Employment and Training Act* (CETA) which consolidated 22 public service employment programs. In late 1974, the Congress expanded the program and incorporated the *Emergency Jobs and Unemployment Assistance Act of 1974*, which became Title VI of CETA.

Title VI authorized state and local governments to spend \$2.5 billion to hire unemployed workers to perform community services in fields such as health, education, sanitation, and recreation. It was intended to create about

110,000 additional jobs for 13 months. By March 31, 1975, according to the Congressional Budget Office, more than 250,000 persons were enrolled under Title VI and under the older Title II of the Act. By June 1975, that number had risen to about 310,000. Those employed tended to be male, aged 22-44, with 12 years or more of education. However, indications are that CETA has also reached a number of non-whites and veterans, and employed them in greater numbers than their representation in the unemployment pool.

One controversial effect of the expanded CETA program was that government employers forced to lay off workers because of the recession often rehired the same employees with CETA funds.

## **The Housing and Community Development Act**

This block grant, enacted in 1974, has passed its first year as "the most closely scrutinized program in the history of HUD and its predecessors," according to *Community Development Digest*, a publication which tracks activity on the program.

The law replaced seven categorical grants: urban renewal, model cities, water and sewer facilities, open space, neighborhood facilities, rehabilitation loans, and public facilities loans. Recipient governments may use the funds anywhere within the local government's jurisdiction to serve the needs of low- and moderate-income people or to meet urgent community development needs.

HUD, the Congress, and non-governmental organizations have looked at the operation of the program and released findings. Congressional committees have held regular oversight sessions on the program throughout 1975. More will follow as the program nears its June 1977 termination date.

Among key problems the program has encountered thus far are: delays caused by strict environmental review requirements; problems in finding adequate data to fulfill the requirements of the housing assistance plans; and disagreements over the allocation formula. Many of the delays caused by the strict environmental review

requirements were the result of the inexperience of local governments in conducting such reviews. The key allocation problem has been that after the needs of cities and urban counties were met, there was not enough money left in the program for discretionary grants to smaller communities. A supplemental appropriation of \$54.6 million was made for the first program year providing for metropolitan area discretionary grants.

The community development program has also provoked city-suburban confrontation in at least one area. In 1975, the city of Hartford, Connecticut, blocked seven of its suburbs from collecting their portions of the money allocated under the law. The basis of the suit is that Hartford needs the money for housing the poor and the elderly more than the suburbs need it for roads, sewers, and parks. A United States district judge issued a temporary injunction denying the seven suburbs over \$4 million in funds.

## **Social Services (Title XX)**

Title XX of the *Social Security Act* was signed by the President on January 4, and became effective on October 1, 1975.

Under this program, the federal government provides matching funds up to 75 percent of the cost for a long list of social services programs such as child day care, foster care, and social programs for the aged, mentally handicapped, alcoholics, and drug addicts. The program calls for a 90 percent federal match for family planning programs.

The Title XX program replaces an old system under which the federal government required the states to provide certain designated services for recipients of Aid to Families with Dependent Children and certain services for the aged, blind, and disabled. Under the current law, states may select a range of programs that suit their special situations as long as at least one program is directed to each of these five broad goals:

- to help people become or remain economically self supporting;
- to help people become or remain able to take care of themselves;

- to protect children and adults who cannot protect themselves from abuse, neglect, and exploitation and to help families stay together;
- to prevent and reduce inappropriate institutional care as much as possible by making home and community services available; and
- to arrange for appropriate placement and services in an institution if this is in an individual's best interest.

The law gives states the authority to determine what services will be provided to whom. It also calls for specific public accountability.

In July of each year, the governor must publish the state's plans for use of Title XX funds for the next year in the most widely read newspaper in each area of the state. The public then has 45 days to study the plan and send any comments to the state social services agency. After the

review period, the social service agency must publish its final plan, explaining what changes, if any, were made to the initial plan and must summarize the comments it received.

The history behind the passage of Title XX is an interesting one. Prior to 1972, there was no limit on the amount of money states could receive under the federal matching for social services. In 1972, however, the Congress passed a ceiling of \$2.5 billion on the program.

In 1972, HEW proposed regulations to impose the limit by mandating specific requirements on the eligible recipients and programs that could be provided. Over 200,000 letters of complaint — many from state officials — came to HEW and to the Congress after publication of the regulations. Congress then postponed implementation of the regulations until December 31, 1974. A coalition of governors, social services organizations, and Congressional representatives hammered out their own compromise bill which passed the Congress and became Title XX.

# CATEGORICAL GRANTS

**E**ven with the advent of the block grant programs, the largest single category of federal grants to state and local governments is still the categorical grant. By 1975, there were over 600 categorical grant programs in operation. Categoricals have grown rapidly since the early 1960s but have not surpassed 1,000, as some analysts have claimed. To reach such a large total, it is necessary to count all forms of aid — loans, insurance programs, technical assistance, shared revenues, as well as cash grants. Such figures are misleading since categorical grants are cash grants and should not include other forms of aid.

Categorical grants range from health to education, planning to personnel. A summary of the activity in the area of various categorical grants in 1975 follows.

## **Health Planning**

*The National Health Planning and Resource Development Act* was signed by President Ford in January 1975. This act created a network of 211 health planning agencies (called health systems agencies or HSAs) designated to plan, develop, coordinate, and regulate the way health care is provided within their jurisdiction. The new HSAs will replace a proliferation of planning and resource agencies and will be responsible for developing area health service plans, approving or disapproving applications for federal health grants, reviewing and commenting

on requests for state approval of new institutional health services, and making grants and awarding contracts for programs and projects aimed at accomplishing the goals of the area health systems plans.

The law provides for state level involvement through gubernatorial designation of boundaries for the health system agencies in their states. The Secretary of HEW, following consultation with the governors, determines the makeup of agencies from three choices: private, non-profit corporation, public regional planning bodies, or single units of general purpose government. The state involvement is important since states had not previously played a key role in health planning. Yet in Congressional deliberations on the law, national associations representing states and counties actively promoted a strong role for elected officials — and opposed legislation calling for the regional bodies to be private, non-profit entities.

One reason for the increased interest in the health planning area, according to *National Journal*, is the possibility of a national health insurance program in a few years. Any such massive new federal health financing program would rely on a network of state and local agencies to help implement and monitor the program.

These groups have also been successful in the implementation of the law thus far. "We are bending over backwards in our regulations to accommodate them within the framework of the law," said Eugene J. Rubel, the HEW official directly responsible for implementing the law.

Although over three-fourths of the previous health planning agencies were private, non-profit organizations, it appears that fewer will be redesignated under the new structure. Many counties, cities, and regional councils have declared their interest in serving as the HSAs.

The Act authorizes funds until Fiscal Year 1977 of over \$400 million for health planning and regulation and over \$1 billion for resource development, which includes programs originally funded by the Hill-Burton program.

## **"701" Planning Assistance**

The Comprehensive Planning Assistance program, more commonly known as "701," was revised as part of the *Housing and Community*

*Development Act of 1974*. Final regulations were issued in the fall of 1975. These new regulations spell out procedures and requirements for obtaining the "701" funds that are far more detailed than in the past.

Applicants for funds must demonstrate their capacity to undertake, maintain, and comply with the following activities and criteria: an ongoing comprehensive planning process that includes chief executive leadership, coordination of functional planning systems, and the development of a comprehensive plan (including land use and housing elements by 1977); environmental and historic preservation assessments; citizen involvement in determining major plans and policies; and equal opportunity in program participation and benefits.

Applicants must also demonstrate the capability to coordinate planning and progress in implementing policies, plans, and programs and must develop a multiyear work program statement. In addition, the regulations make clear that HUD will not approve applications for activities that duplicate existing or ongoing plans or studies.

Under new HUD administrative rules, applications for "701" assistance are negotiated in one year and funded in the next.

Although the law authorized \$150 million for the program for Fiscal Year 1976, only \$75 million was appropriated.

## **Intergovernmental Personnel Act**

The *Intergovernmental Personnel Act of 1970* provides funds to improve the management capabilities of local government officials. As enacted, the law provided that the federal match for programs funded by the Civil Service Commission be 75 percent for the first three years of the Act (until July 1, 1975) and 50 percent thereafter.

The programs are currently operating at the 50 percent match level, but legislation has passed the Senate and is pending in the House to extend the 75 percent match for an additional year.

## **Release of Impoundments**

Release of impounded funds early in 1975 made money under two major programs available to state and local governments.

On February 24, President Ford authorized the release of \$9 billion of \$18 billion authorized for Fiscal Year 1976 in the *Federal Water Pollution Control Act of 1972*. The \$9 billion includes \$4 billion released by the President in January, as well as the additional \$5 billion released as a result of the Supreme Court decision that the impoundment of funds for sewage treatment plant construction violated the law.

Also in February, President Ford released \$2 billion in impounded highway funds. Then, following requests from the nation's governors, the state matching requirement was lifted for two years so the states could use the money immediately to hire workers and aid their own economies.

## **Older Americans Act**

In late 1975, the Congress passed, and the President signed into law, a three-year extension of the *Older Americans Act*. The bill calls for \$1.7 billion for Fiscal Year 1977-1978, including basic grants for state and local programs aiding the elderly, for support of a community service jobs program for older

workers, and for senior volunteer programs run for ACTION.

The law requires states to set aside at least one fifth of the grant funds for special types of service programs for the elderly including transportation, home health and other home-based services, legal and tax counseling, and housing repair and renovation programs.

## **Land and Water Conservation Fund Act**

The Senate has passed legislation to amend the *Land and Water Conservation Fund Act of 1964*. The Act provides \$300 million for a program of grants to state and local governments for planning, acquisition, and development of outdoor recreational lands. Currently federal and state governments contribute equal shares to recreational land purchases. This bill would change that ratio to 70 percent federal and 30 percent state or local to encourage state acquisition rather than development. The bill would also provide special incentives for urbanized states.

# GENERAL REVENUE SHARING

**T**here was much rhetoric and little action on general revenue sharing in 1975. National organizations representing state and local officials attempted to persuade the Congress to reenact the program in 1975 in order to assure its exemption from the new Congressional budget timetables and regulations and to allow states and local governments the lead time they need for orderly planning of the use of these funds in their own budgets. These attempts failed.

The year ended without passage of the bill and with many expressions of concern for passage in 1976. HUD Secretary Carla Hills, for example, speaking before the National League of Cities in December said, "you stand a 50 percent chance of losing these funds altogether."

She blamed "political gamesmanship" for the delay in revenue sharing's reenactment and said the combination of politics and earnest opposition "is jeopardizing the most valuable domestic program we have."

Senator Edmund Muskie issued a warning early in the year when he told an ACIR conference on American Federalism in Action in February that the program faced "rough sledding in Congress." He said renewal would be "neither automatic nor easy."

Hearings were held in both the House and the Senate on revenue sharing. Most of the witnesses — particularly state and local representatives — favored renewal of the program.

Opponents included civil rights groups who testified that local governments used the money to aid in discriminating. They stated the money could be better used if it was targeted to certain groups that needed it. Elmer Staats, Comptroller General of the United States, also testified that he supported dropping general revenue sharing altogether and broadening categorical programs instead.

Much concern was expressed in two areas: the problems of determining use of the money and enforcement of civil rights provisions.

The General Accounting Office, responding to the problems with the planned and actual use reports required under current law, recommended to Congress that it discard the current reporting system and replace it with a single comprehensive financial statement for each recipient, showing the sources and uses of all funds, not just revenue sharing. GAO recommended that such a report be a three-year financial report at the end of each fiscal year and include estimates of all revenues and expenditures for the current fiscal year and comparable actual spending and tax figures from the

previous year and budgeted figures for the coming fiscal year.

In response to the second main area of concern — enforcement of civil rights provisions — the Office of Revenue Sharing issued new regulations governing the non-discrimination provisions of the revenue sharing act. These regulations prohibit state and local governments which receive revenue sharing funds from using the money for any programs or activities which subject individuals to discrimination on the basis of sex, race, color, or nationality. Governments found to be so discriminating are required to use revenue sharing funds to correct any inequities in programs financed by those revenue sharing funds.

The new rules also forbid personnel practices based on an employee's status as the head of a household so that, for example, pregnant women cannot be treated differently unless pregnancy interferes with performance of the job. The new regulations also prohibit job classifications setting sex as a qualification unless need for such a classification can be proven.

# OTHER MAJOR INTERGOVERN- MENTAL PROGRAMS

**A**ny summary of the intergovernmental year would be incomplete without a look at a number of federal programs and policies that, while not specifically targeted at state and local action, had major intergovernmental impact. These programs include welfare, transportation, growth policy, and federal standards in the areas of workmen's compensation, public employee labor relations, and public pensions.

## **Welfare**

The federally administered Supplemental Security Income program for the aged, blind, and disabled dominated headlines throughout part of 1975 when it was discovered that over \$400 million in overpayments had been sent out since the program's beginning in January 1974.

The program established for the first time in this country a wholly federally financed and administered program of aid for the aged, blind, and disabled. Directed by the Social Security Administration, the program provides a federal income floor for 4.2 million eligible persons and establishes nationally uniform eligibility requirements. The federal share of this program was over \$4 billion in Fiscal Year 1975.

Overpayments have long been a problem with welfare-related programs. When the states administered this program, for instance, their

overpayment rate for a six month period in 1972 was 13.1 percent. In the same six month period in 1974, the federal overpayment was 12.9 percent.

Another major concern throughout 1975 was food stamps. The food stamp program has increased at a phenomenal rate since its inception in 1964 with a budget of \$35 million and 424,000 participants. In 1975, the program provided 19 million participants with food stamps at a cost of \$4.7 billion. Current estimates are that the program will cost between \$6.1 and \$6.5 billion in Fiscal Year 1976.

Suggestions for reform of the program vary. The Ford Administration has recommended a plan to cut 4.3 million persons out of the program and reduce benefits for 5.3 million others. Another proposal, sponsored by Senator Dole (Kans.) and McGovern (So. Dak.) would give all eligible families free stamps instead of making them pay some cash for them. The proposal, say the sponsors, would not increase cost — but would save money by simplifying administrative procedures.

The concern over welfare was by no means limited to the federal level. Several "revolts" occurred across the country as local officials balked at the strain high welfare costs were placing on their already tight budgets.

One such revolt took place in New York state. In August, local officials in two counties refused to authorize borrowing of additional funds to carry welfare programs through the end of the year. The counties did later pay their welfare recipients, but well after representatives of 27 counties in the state met to discuss their common problems. The officials at the meeting adopted a resolution unanimously calling for welfare reform by both the state and federal governments.

Additional support for those counties' plea for help was provided by the Temporary State Commission to Revise the Social Services Laws, which made a series of recommendations at the end of the year to the Congress and the 1976 New York State Legislature. The Commission recommended increased federal funding for welfare — specifically that the federal share in each state be increased to cover half of the present state-local share of program costs. This change would, in effect, increase the federal share of AFDC and Medicaid, and would save

New York's state and local governments \$1 billion a year, according to the Commission.

## Transportation

In the first comprehensive national transportation policy ever issued by the U.S. Department of Transportation, Secretary William T. Coleman, Jr., outlined three top federal transportation priorities.

These priorities were: more energy-efficient use of automobiles, the financial survival of railroads and airlines, and more effective urban mass transportation.

He said federal subsidies in many instances were developed "without adequate consideration of the competing interests" and as a consequence, there are inequities in the present subsidy practice. A federal subsidy should be the last resort, he said.

A major bill to reorganize the Highway Trust Fund was sent by the Administration to the Congress in the fall with little resultant action. The Administration's proposal calls for one cent of the federal gasoline tax to remain earmarked for the Highway Trust Fund, two cents to be returned to the General Fund of the U.S. Treasury and the remaining one cent to be repealed in any state which increases its own gas tax by one cent.

The proposed legislation, which will again be under consideration in 1976, would also consolidate more than 30 categories of federal highway aid into four broad program areas: the Interstate System, an urban transportation assistance program (in areas of more than 50,000 population), the rural transportation assistance program (in areas not covered by the urban program), and the highway safety improvement program. The ACIR supports a consolidation of federal aid in the transportation area.

In December, the House and Senate passed and sent to conference separate bills authorizing a two year extension of the Highway Trust Fund, due to expire June 30, 1976. The House bill calls for \$8.9 billion extension; the Senate bill provides \$7.2 billion for interstate and other federal aid highway construction.

In November, the federally funded ConRail System for restructuring the nation's Northeast and Midwest railroads took effect. The system provides that 5,700 miles of existing track be abandoned unless the states appropriate 30

percent of line operating costs to match 70 percent federal money.

In a related move in December, the Congress passed a bill authorizing up to \$6.5 billion in financial assistance — grants and loans — for the nation's ailing railroads. A large portion of the money (\$2.1 billion) will be loaned to Con-Rail. The bill will also lessen federal regulation of the rail system, giving railroads more flexibility in setting freight rates. At the end of 1975, the bill's future was hinged on a possible Presidential veto.

Administratively, DOT consolidated all of its previously separate urban transportation planning regulations governing highway and transit programs into a single new issuance which requires a single metropolitan planning organization (MPO) in each area with real authority to program federal-aid transportation projects in urban areas.

## **National Growth Policy**

Although the Domestic Council is required to produce national growth reports for the Congress on a biennial basis, the policy and process of implementing a national growth policy are sorely lacking. The report is probably a good first step, yet several problems are evident including that the report's recommendations do not really include stated or proposed administration policy. What few recommendations there are in the report are not assigned to specific organizational units for implementation, are not broken down into specific targets for action within a specific time period, and are not accompanied by budgetary recommendations or proposed legislation.

The ACIR has recommended that the national growth policy report become one of the President's primary managerial tools; that it should be directly related to Congressional, state, local, and regional growth policies, as well as to the policies of the federal executive departments; and that the federal government increase its efforts to strengthen state, local, and regional capabilities to more effectively manage and help coordinate growth-related programs.

There has been federal action supporting the

development and implementation of growth policies at the state, local, and regional level. Chief among these efforts are HUD's "701" planning assistance, GSA's and OMB's federal-aid simplification effort, and the Civil Service Commission's intergovernmental personnel program. In addition, for many years the federal government has supported substate regions and regional planning efforts which can effectively deal with growth policy.

Certain state and local governments have provided some leadership in the area of growth policy. According to the Council of State Governments, every state exercises at least some statewide planning and/or land use control authority. Forty-four states have established statewide systems of substate districts and assigned regional planning responsibilities to an areawide planning organization in three-quarters of these regions.

Federal legislation to provide incentives and support for states in the land use area has been introduced each of the past four years. This year, once again, it was defeated.

## **Workmen's Compensation, Public Pensions, and Collective Bargaining**

Three areas which are currently state responsibilities, but which may soon become federal as well, are workmen's compensation, public pension plans, and collective bargaining.

**Workmen's Compensation.** Hearings were held in 1975 on legislation providing for federal standards on workmen's compensation. A study by the Senate Labor Subcommittee is considering how the cost should be distributed among the affected levels of government.

A 1972 study on the subject estimated that costs for 34 states could increase by over 20 percent if increased medical and death benefits were applied to millions of workers, including government employees, not currently covered by federal law.

A further question in this area concerns the constitutionality of Congressional authority to invoke the commerce clause to legislate in areas historically within the purview of state and local

governments. This argument may be decided in a Supreme Court decision on the constitutionality of the 1974 *Fair Labor Standards Act Amendments* expected early in 1976.

**Public Pensions.** A similar question arises in the area of federal legislation covering public pension plans. A law passed in 1974 set up requirements for private pension plans and required that four separate Congressional committees study public employee retirement programs and report back to Congress.

The private pension legislation provides for a detailed system of reporting and disclosure of the plan and its financial status, coverage for anyone 25 years of age or with one year of service, and accommodation to a series of vesting guidelines, standards for benefit accrual, funding criteria, and fiduciary responsibility.

These features could conceivably be required in a plan covering public pensions also.

The New York City fiscal problem has high-

lighted the problems of potential underfunding of retirement funds. Yet the situation is not new. A 1973 study by ACIR concluded "underfunded, locally administered retirement systems pose an emerging threat to the financial health of local governments." A study of Pennsylvania cities conducted in mid-1975 confirmed that finding when it showed that one-quarter of the 44 cities studied had inadequately funded pension plans.

The ACIR, and others, have recommended that supervision of local retirement funds should be the responsibility of the state, not the federal government.

**Collective Bargaining.** Still another area where legislation providing for federal mandating has been introduced is collective bargaining. One bill currently pending in the Congress would extend the jurisdiction of the *National Labor Relations Act* and the National Labor Relations Board to state and local employees.

# IMPROVED GRANT ADMINISTRATION

In late 1974, with the signing of the *Joint Funding Simplification Act*, there was a new basis for optimism that more would be done to improve federal grant administration. A year later, the outlook is bleak.

## Office of Federal Management Policy

In December of 1975, the Congress passed a bill transferring the Office of Federal Management Policy (OFMP), formerly a unit of the General Services Administration, to the Office of Management and Budget.

The OFMP was disbanded as a separate office and its responsibilities were reassigned to three divisions within OMB: the Budget Review Division, the Organization and Special Studies Division, and the Evaluation and Program Implementation Division.

In GSA, the Office of Federal Management Policy had operated three circulars of interest to state and local governments: 73-2, which provides guidelines for audits by executive branch agencies and encourages use of state and local audits; 74-4, which sets conditions on which state and local governments can claim indirect costs; and 74-7, which provides for the standardization of application procedures for federal grants.

An equally important function of the office to state and local governments was that it operated the Joint Funding Simplification process.

OFMP's problems first surfaced in July 1975 when a House-Senate conference committee authorized a reduction in its appropriation of nearly \$800,000. The budget request was for \$1.88 million; the conference committee appropriated \$1.1 million. A supplemental appropriation to bring the OFMP back to its prior operating level was made contingent upon submission of a report by the Office of Management and Budget on the responsibility and operation of the OFMP.

The OMB report recommended that the OFMP remain within the General Services Administration; that it be renamed the Office of Management Systems Implementation; and that OMB assume more policy oversight to allow the OFMP to concentrate on implementation.

But by the time the OMB report was submitted to the Congress, a House subcommittee had already decided against granting any supplemental appropriation.

In mid-December, a House-Senate conference committee reported out a bill calling for a \$500,000 appropriation for the remainder of Fiscal Year 1976 and an additional \$120,000 for the three-month transition period between the 1976 and 1977 fiscal years. The funds are not additional appropriations but are to be taken from the GSA Fiscal Year 1976 budget. The bill passed both Houses and was signed into law.

## Joint Funding

As of January 1, 1976, the joint funding program, established by law in 1974, will be administered from the Organization and Special Studies Division of the Office of Management and Budget. Charles Bingman, Deputy Associate Director of that division, said that a re-evaluation and redefinition of priorities in the administration of the program will be made early in 1976. He said "a small task force arrangement" will work with the program in the early months since there were only three people transferred from GSA with experience in the administration of joint funding."

The joint funding process permits a single application, single audit, and single point of

federal contact for programs funded from more than one federal source.

The process calls for the applicant to identify the sources of federal assistance relevant to a particular project from a list of programs identified by the federal agencies. The federal regional councils accept and approve proposals for implementation through the joint funding approach and designate a "lead agency" from among the departments whose funds will be used. The lead agency becomes the grantee's single contact with the federal government in connection with the grant, receiving all reports and conducting the single audit.

Draft regulations were published in the December 24, 1975, *Federal Register*.

## A-95 Changes

Several changes were made in the administration and procedures of the A-95 clearinghouses during 1975. *OMB Circular A-95* sets up a procedure for coordinating federal and federally assisted programs and projects with each other and with state, regional, and local plans and programs. Although there are four parts to the circular, the key one is Part I dealing with state and local review of applications for federal assistance.

The circular requires that state and areawide A-95 clearinghouses (usually the state and regional planning agencies) be notified of any application for federal aid within the clearinghouses' jurisdictions. The clearinghouses then notify other appropriate state agencies and local bodies. All notified parties examine the application and determine if there are any actual or potential conflicts between the application and state, areawide or local plans, or other federal-aid applications and programs. The comments of the clearinghouses and other reviewing bodies are submitted with the application to the funding agency.

The A-95 program was expanded in January 1976 to include an additional 38 programs, largely in the human resource area. This will bring the total number of covered programs to about 200.

In addition, *Federal Management Circular 74-7* was revised to provide a new face sheet for grant preapplications and applications. The sheet also serves as the form for federal

agencies to report to clearinghouses on actions taken on applications reviewed under A-95 and to notify states of grants awarded pursuant to *Treasury Circular 1082*.

## **Treasury Circular 1082**

*Treasury Circular 1082* (originally *OMB Circular A-98*) is a means by which federal agencies inform designated state officials of the purposes and amounts of grants-in-aid to the states or any of its political subdivisions.

The circular was expanded in its coverage in regulations published in the *Federal Register* on November 21, 1975. The regulations provide for a broader definition of the term federal assistance, thus allowing more programs to fall under the procedures of the circular.

In addition, changes in the circular include:

- A loosening of strict requirements for supplemental reporting (providing of federal assistance information beyond that which is directly required under the program). This information may be given in the form most agreeable to the recipients within a reasonable period of time. Basic reporting (or reporting of grants of direct interest to states) must still be provided on approved forms and within seven days of grant approval.
- Agencies are now required to provide their own written procedures for compliance with the circular and then abide by those rules.

## **OMB Circular A-38**

*Office of Management and Budget Circular A-38* was designed to provide state tax officials with names and addresses of military persons who claimed their state as their legal domicile. The circular requires the armed forces to obtain from each member a declaration of the legal

residence and to send a W-2 type statement to that state. If the serviceman has no current legal residence on file, the circular says the wage statement should be sent to the state in which the military member is serving.

Although state officials have indicated they had problems with the circular, under current law it is the only way states can obtain any kind of list of military persons claiming their state as domicile — and thus eligible for state income taxation.

In September 1975, citing conflicts with the new *Privacy Act*, OMB rescinded A-38. However, the Department of Defense announced in November that it would continue to provide the same information to states that had been provided under A-38.

As part of a study of state and local taxation of the military, ACIR examined the workings of the A-38 process. It found that there were discrepancies in the number of forms actually received by the states and the number reported to ACIR by the military services as having been sent. In addition, the information received by the states was often rendered useless by lack of address or blurred forms.

For example, according to Army figures reported to ACIR, Wisconsin should have received 7,580 wage statements in 1974. It received only 1,536. Another state reported receiving 21,107 wage statements rather than the 25,692 reported to ACIR by the services.

Several states also reported frequent lack of addresses on the forms. Moreover, one income tax official reported that attempts to obtain addresses from the services subsequent to receipt of the wage statements yielded only a series of illegible labels.

At its November 1975 meeting, the Commission concluded that the *OMB Circular A-38* information program was an inadequate response to the income tax requirements of both military personnel and state and local tax administrators. The Commission recommended that the Congress amend current federal law to require withholding of state and local income taxes from military pay.

# THE IMPACT OF FEDERAL AID ON SUBNATIONAL STRUCTURES

In addition to the money impact, federal aid has a political impact on its recipients through the incentives it creates for changing the ways in which those governments are structured.

General revenue sharing provides one such excellent example. Research on the impact of the program indicates that revenue sharing tends to prop up certain duplicative, obsolete and/or defunct units of government. The law provides that all general purpose, local governments must receive at least 20 percent of the statewide per capita local grant. Therefore, even those governments that are obsolete or inactive (such as Midwest townships, which are often little more than road districts, and some counties in states such as Massachusetts and South Dakota which have few responsibilities beyond administering courts) receive funds which induce them to stay afloat even if they have little to do.

Block grants also tend to have an influence on the structure and functioning of recipient governments. Two important laws in this respect are the *Comprehensive Employment and Training Act* and the *Housing and Community Development Act*.

CETA funds are available to so-called "prime sponsors," that is, to each of the 50 states and to those local governmental units with a population of 100,000 or more.

This orientation toward large general purpose governments represents a major change from the legislation it replaced. The earlier cluster of categorical programs provided for grants from the Department of Labor to organizations such

as community action agencies, unions and corporations, as well as local governments, to carry out manpower programs.

There was — and continues to be — some controversy concerning the role of counties in the CETA legislation. Large cities which received the bulk of the previous categorical programs seem to be receiving less money under the CETA program. Estimates made for internal Congressional use by the Department of Labor show that cities over 100,000 lose substantially under the new formula.

The provision for counties in the manpower bill did not represent a totally new role for that level of government since many had provided welfare, health, corrections, and other programs related to employment for some time. However, it did have the effect of rearranging the assignment of functions among local governments in many areas.

“When we consider where the counties were in manpower two years ago, this legislation represents a tremendous advance for us,” said Ralph L. Tabor, Director of Federal Affairs at the National Association of Counties.

During the first year of CETA, 147 individual counties served as prime sponsors for the funds. In the second year that number rose to 177.

In addition to strengthening county governments with increased funding and expanded services, the bill also encourages cities and counties to work cooperatively to provide services with the money. In 1975, 136 combinations of city and county governments were funded to deliver manpower services under CETA.

The second block grant, the *Housing and Community Development Act*, also favored general purpose governments as recipients as opposed to the wider range of single purpose recipients eligible under the earlier categorical grants (such as redevelopment agencies, housing authorities and Model Cities agencies). The Community Development law provides entitlement funds to cities with populations of over 50,000 and certain counties over 200,000 with essential community development powers based on a formula that takes into account population, poverty, and overcrowded housing.

Prior to the passage of this bill, counties had little experience with housing and community

development responsibilities. What experience they had was primarily concentrated in the areas of water pollution and waste treatment.

As with CETA, it appears that the inclusion of counties in the program has affected the amount of money going to cities. Figures from the Department of Housing and Community Development indicate that the six largest cities fared as well under the new bill as under the old ones (although this may directly relate to the hold harmless provision for several major urban programs). Yet HUD figures do show that total aid to cities from 50,000 to 1 million population dropped from \$1.25 billion under earlier housing programs to \$970 million under the current program.

Another problem arose in 1975 when the number of counties qualifying for funds greatly exceeded previous estimates, causing a substantial redistribution of funds. HUD cancelled invitations for discretionary fund applications until subsequent appropriations reopened discretionary program funding.

This law has also changed the relationships of government at the local level. Many cities and counties had to go to their state legislatures seeking changes in state law to allow them to borrow money, provide loans, and own and operate housing as they must do to qualify under the federal law. Since the states are only eligible for 20 percent of the total funds (half of which would go on to metropolitan areas), they are usually eager to give the local governments necessary power so the money can come into the state.

The importance of this legislation is appreciated by cities and counties.

“The administration of community development programs under the *Housing and Community Development Act* will doubtless increase the responsibility of municipal officials, particularly, with respect to program planning, management, and evaluation,” said a report on the program in *Nation's Cities*, the magazine of the National League of Cities.

A publication of the National Association of Counties concurred. “The new law is anticipated to substantially alter many of the traditional roles, responsibilities and relationships at the local level in the area of community development,” said a NACo summary report on community development.

# SHIFT TO THE SOUTHERN RIM

**A**nother important happening which has gained increasing recognition is the demographic and financial shift in the balance of power among the regions of the United States. One author calls it a shift of power and resources to "the Southern Rim." By any name, the development has vast implications for our federal system.

This rim, according to Kirkpatrick Sale in a book entitled *Power Shift*, includes those states across the bottom of the country that have the most perfect climate, most extensive coastline, most developed inland waterways, most efficient highways and railroad system, the most available space, the most oil, gas and resources, the longest growing season, and on and on.

In a 1968 report entitled *Urban and Rural America: Policies for Future Growth*, ACIR predicted that the "lion's share" of future population increases would come in the largest, fastest growing urban areas with the South and West continuing to experience the greatest gains in population.

These fast growing areas may significantly benefit if a Senate-passed bill becomes law. This bill would require the Census Bureau to reestimate population figures for states and cities over 50,000 population every year and for smaller jurisdictions every two years. Federal aid provided on a population basis could then be

revised frequently. The older large inner cities of the Northeast would probably suffer.

Figures compiled by the Advisory Commission on Intergovernmental Relations support the thesis that per capita income of states once thought "poor" has risen at a fast rate, while the per capita income as a percentage of the national average of the "rich" states has fallen.

For instance, the Commission found that in 1929, Mississippi, the state with the lowest per capita income, was only 41 percent of the national average. Today it is 69 percent. In 1929 Connecticut was the state with the highest per capita income at 146 percent of the U.S. average. Today Connecticut is 119 percent of that average.

The disparities are even clearer by region. The Southeast states have had their per capita income rise from 53 percent of the national average in 1959 to 83 percent in 1974. At the same time, the Northeast, still the wealthiest region, declined from 150 percent to 116 percent of the national average.

Figures compiled by the Appalachia Regional

Commission substantiated these compilations. They looked at the period from 1969 to 1972 and found that the gap in per capita income between the Appalachian states and the nation as a whole was tending to close.

## **Equalization**

This change in the relative wealth of sections of the country has obvious implications for a federal aid system which has as one of its purposes to equalize the economic condition of the people and governments in the country.

However, a look at this aspect of federal aid by the Advisory Commission on Intergovernmental Relations found that in the aggregate, federal aid is only mildly equalizing. ACIR analyzed the correlation between state personal income and total federal aid to states per capita, federal general revenue sharing per capita, and total federal aid other than revenue sharing. The analysis revealed that there are only miniscule differences among the three approaches in their equalization power.

# CONGRESSIONAL BUDGET REFORM ACT

I ntergovernmentally and otherwise, one of the most significant pieces of legislation enacted this decade was the *Congressional Budget Reform and Impoundment Act of 1974*. The fundamental purpose of the law was to establish the procedures and the mechanism to enable Congress to deal comprehensively and effectively with the federal budget.

The new procedures became fully effective in Fiscal Year 1977, beginning in October 1976, and revolve around two concurrent resolutions. The first, adopted each spring, will set forth a target budgetary ceiling. The second, adopted near the end of the budget cycle, will revise or affirm fiscal appropriations totals contained in the first resolution within the priorities set earlier. Any bill pushing spending beyond the limit will be considered out of order and may be blocked by one member's objection. If the tax bill considered by that Congress is insufficient to meet the revenue requirements anticipated by the spending limit, Congress will either have to send it back to the tax committees or vote to raise the deficit.

1975 was a "trial" year for the new budget procedure set up by the law. During the "trial" period, the House and Senate passed two budget resolutions setting a limit of \$74.1 billion for the Fiscal Year 1976 deficit. In order to stay within the spending targets, the Senate made

cuts in its military authorization and child nutrition bills, and the House turned back a bill that would have let federal employees retire early. The Fiscal Year 1977 budget resolutions will contain not only total spending and revenue figures considered in the Fiscal Year 1976 "trial run," but also a breakdown of spending into 16 categories. The Budget Committee reports will divide spending totals among the committees responsible for spending legislation. The budgetary timetable is:

| <b>On or Before:</b>            |   |
|---------------------------------|---|
| November 10                     | President must submit current services budget to the Congress                                       |
| 15 days after Congress convenes | President submits annual budget message to the Congress   |
| March 15                        | Standing Congressional committees make recommendations to Congressional budget committees           |
| April 1                         | Congressional Budget Office reports to Budget Committees on alternative budget totals and subtotals |
| April 15                        | Budget Committees report first budget resolution  |
| May 15                          | Congress passes its first budget resolution   |
| Seven days after Labor Day      | Congress passes all pending bills   |
| September 15                    | Congress passes second budget resolution  |
| September 25                    | Congress passes budget reconciliation bill  |
| October 1                       | Fiscal Year begins  |

The procedures have great significance to state and local governments. With bills passing now at all times of the year, many of them providing funds retroactively, state legislatures are often caught off-guard and out of session. Planning ahead is difficult, if not impossible, often with only intuition or "inside knowledge" to provide information on the potential success or failure of bills involving millions of dollars to states.

The new procedure is designed to remove much of that uncertainty. One of the most important benefits to subnational governments is that it will allow states more lead time in developing their own budgets and a definite schedule of Congressional action.

Other parts of the law important to states require that:

- all appropriations bills must detail their impact on state and local governments;
- the Director of the Office of Management and Budget, in cooperation with the Director of the Congressional Budget Office, must provide fiscal, budgetary, and program-related data to states and localities to aid them in determining the impact of federal assistance on their budgets;
- the President is prevented from unilaterally impounding the Congressional appropriated funds;
- the two concurrent resolutions must include estimated levels of tax expenditures under current tax laws.

In order to work, the process requires commitment from members of both Houses. Senator Edmund Muskie, Chairman of the Senate Budget Committee, expressed the demands of the process this way: "If we are going to proceed with our legislative business as usual, as we have done it customarily and just treat the budget process as some kind of nuisance over to one side, and not significantly change our habits or our ways of doing things, it is going to be meaningless. You just cannot continue to do business as we have . . . and make this process work."

Observers generally agree that the first year of the budget procedure has worked surprisingly well. One reason for the success may be that the current economy has dramatized the need for a way to set spending priorities within an overall framework and limit.

Representative Brock Adams, Chairman of

the House Budget Committee, expressed such feelings when he said that the federal budget has soared over the last seven years, yet no new social programs have come out of the expanded funds. Unless Congress can get a handle on the old programs, he says, there will never be any money for the new ones.

# INVOLVEMENT OF THE COURTS

**T**hroughout its long history, the judiciary has played an important role in interpreting, supporting, and reforming the operation of the federal system.

Courts in 1975 carried on this tradition of clarifying and modifying the dynamic field of inter-governmental law. The U.S. Supreme Court made key decisions concerning off shore oil ownership and state commuter taxes and held over another important case in the area of federal standards and their application to state and local employees. Several lower courts made important rulings in the area of land use and zoning.

**Off Shore Drilling.** In a case decided in March, the U.S. Supreme Court ruled that oil and gas resources of the outer continental shelf belong to the federal government, not the states.

The case was initiated when the State of Maine claimed that lands off-shore on the outer continental shelf were theirs for leasing to private developers. The United States then brought a complaint in the Supreme Court against 13 states with Atlantic coastlines (Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida). The United States sought the Supreme Court's assurance that it owned the seabed and

subsoil under the Atlantic from the statutory three-mile limit to the outer edge of the continental shelf.

The states wanted the Supreme Court to overturn a decision made in 1947 (*United States v. California*) where the Court dismissed California's arguments that the original 13 states, as colonies, had title to offshore resources up to the three-mile limit and that California had the same ownership under the doctrine of "equal standing."

In the California case the Court ruled that the colonies never had such ownership; that dominion over the three-mile territorial sea and its resources was first claimed by the national government; and that such dominion was a function of that national government.

In 1953, the Congress modified the Court's ruling when it gave the states title to offshore resources out to the three-mile limit in the *Submerged Lands Act*. But that Act specifically reserved to the federal government the ownership of resources beyond the three-mile limit.

The 13 states in the 1975 case claimed that the Court had been in error in the 1947 decision and that the Congress had repudiated that ruling when it gave states title to offshore resources up to the three-mile limit. The Court was unanimous in its decision against the states. It ruled that any prior ownership of the lands in question "did not survive becoming a member of the Union."

The decision cleared the way for the Department of the Interior to lease tracts on the outer continental shelf to the oil companies. Yet actual leasing was delayed due to concerns expressed by the states that environmental factors had not been adequately assessed, that there had been insufficient consultation with the states, and that suitable financial and safety assurances for states were lacking. In mid-December, several bids for offshore drilling were accepted by the Department of the Interior.

**Fair Labor Standards.** At the end of 1975, the reargument of *The National League of Cities, et al, v. Dunlop* had yet to be heard by the U.S. Supreme Court. The case has been before the court a year, due to the illness and ultimate retirement of Justice Douglas, made even more important by the apparent fact that the Court is closely divided. Indications are there will be a decision this spring.

The case is a critical one to state and local governments. At issue is the constitutionality of the 1974 *Fair Labor Standards Act Amendments* which would extend federal minimum wage and overtime pay protection to all non-supervisory state and local employees including police and firemen. The plaintiffs, the National League of Cities, National Governors' Conference, 20 states, and four cities, contend that the 1974 amendments violate constitutional federalism by purporting to make state and local government personnel policy the province of the national government. In addition, they say, the law could prove extremely expensive, especially to already strapped cities, due primarily to its special provisions relating to overtime for firemen and police.

At least three bills pending in Congress to mandate federal standards and practices (for public pension funds, collective bargaining, and workmen's compensation) might be affected by the ruling. A decision to uphold the application of the amendments to state and local governments might encourage passage of those bills; a decision to the contrary would surely hinder passage of the pending legislation.

**New Hampshire Commuter Tax.** In March 1975, the U.S. Supreme Court found New Hampshire's commuter income tax to be unconstitutional since it was imposed on non-residents who earn income in New Hampshire, but not on New Hampshire residents.

The ruling overturned an earlier New Hampshire State Supreme Court ruling that found the tax constitutional.

The New Hampshire commuter income tax imposed a tax on non-residents' New Hampshire-derived income above \$2,000 at a 4 percent rate. In cases where the non-resident's state of residence imposed a lesser tax, the New Hampshire tax was reduced by the amount.

New Hampshire imposed no tax on its residents' earned income, and provisions in the commuters' income tax effectively exempted from the tax income earned by New Hampshire residents outside the state.

The U.S. Supreme Court found that non-residents were treated unequally in violation of the Privileges and Immunities Clause of the U.S. Constitution which provides that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."

**Land Use/Zoning Decisions.** Two somewhat contradictory major decisions have been rendered this year in the area of controlled growth zoning. A federal circuit court panel overruled the lower federal district court's ruling that found unconstitutional a controlled growth plan in the California town of Petaluma. The Petaluma plan called for limiting the housing development growth to 500 dwelling units per year from projects of five units or more, based on a rating system related to plan, design, and provision of low- and moderate-income dwelling units. The lower court found that such a plan unconstitutionally denied the right to travel in that it tended to "limit the natural population of the area."

The three-judge panel appointed by the Ninth Circuit Court of Appeals, however, dismissed the right to travel claim and said the plaintiffs lacked standing to raise the constitutional rights of third parties. The circuit court panel found that the Petaluma plan was not an arbitrary

exercise of the police power as delegated to the municipality by the state.

Indications are that this case will be appealed to the U.S. Supreme Court, following the circuit court's denial of a motion for rehearing.

The second case, *Southern Burlington County NAACP v. Mt. Laurel*, was tried in a state court and resulted in a decision in apparent conflict with *Petaluma* and certain related decisions. The New Jersey Supreme Court struck down municipal zoning ordinances that exclude poor or moderate-income families by such devices as prohibiting apartments or requiring single family homes to be built on large lots. The court also ruled that every municipality in the state has to provide a "fair share" of the prospective housing requirements of its surrounding region. Yet the court did not define key words in the decision such as fair share, region, and prospective housing, and it did not provide means to enforce the decision at the local level.

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(MARCH 1976)

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# what is acir?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, state, and local government and the public.

The Commission is composed of 26 members — nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20 — three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from slates nominated by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House. Each Commission member serves a two year term and may be reappointed.

As a continuing body, the Commission approaches its work by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning

of the federal system. In addition to dealing with the all important functional and structural relationships among the various governments, the Commission has also extensively studied critical stresses currently being placed on traditional governmental taxing practices. One of the long range efforts of the Commission has been to seek ways to improve Federal, state, and local governmental taxing practices and policies to achieve equitable allocation of resources, increased efficiency in collection and administration, and reduced compliance burdens upon the taxpayers.

Studies undertaken by the Commission have dealt with subjects as diverse as transportation and as specific as state taxation of out-of-state depositories; as wide ranging as sub-state regionalism to the more specialized issue of local revenue diversification. In selecting items for the work program, the Commission considers the relative importance and urgency of the problem, its manageability from the point of view of finances and staff available to ACIR and the extent to which the Commission can make a fruitful contribution toward the solution of the problem.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups. The Commission then debates each issue and formulates its policy position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.

