

The Condition
of American
Federalism

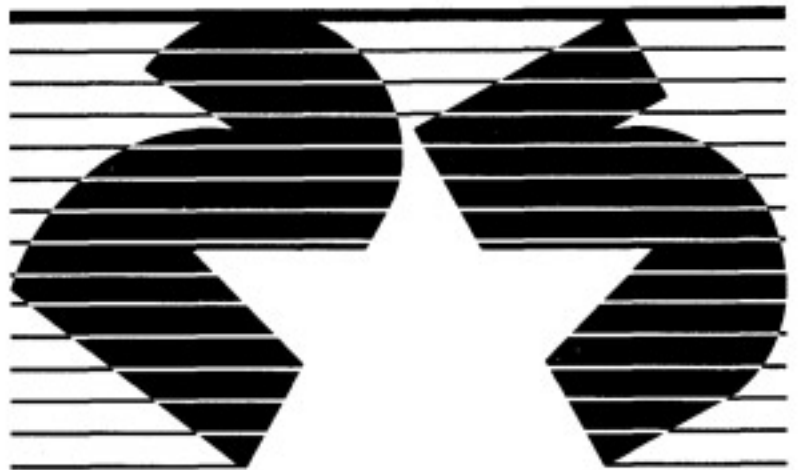
*Hearings
Held in ACIR's 25th Anniversary
Year*



Advisory Commission on Intergovernmental Relations

The Condition *of* American Federalism

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Advisory Commission on Intergovernmental Relations

M-144



In Memoriam

S. KENNETH HOWARD

1935-1985

ACIR Executive Director
1982-1985

Preface and Acknowledgements

The Advisory Commission on Intergovernmental Relations (ACIR) celebrated its 25th Anniversary in 1984. During the past quarter century, the Commission has continually sought to assess the condition of American federalism. The silver anniversary year provided a timely opportunity to emphasize this monitoring role. Several special undertakings were part of this effort, including the hearings reported in this publication.

In September 1983, the Commission concluded that developments in the field of state-local relations during the remainder of this decade would constitute the best measure of the future strength, viability and direction of our federal system. At a time of real and important changes within the federal system, the ACIR anniversary hearings around the country gathered experiences and opinions from persons representing informed but diverse views. The five sessions were held in Phoenix, AZ; Denver, CO; Seattle, WA; Boston, MA; and Indianapolis, IN. In all, over 50 individuals participated, drawing on an array of backgrounds to provide a useful sampling of judgments on the problems and the practical issues confronting the American federal system today. These individuals included:

- State-elected officials:* two governors, one lieutenant governor, and three legislators.
- State-appointed officials:* two agency heads, and one legislative staff representative.

State ACIRs or similar groups: eight members or staff persons.

Counties: three executives, six board members, and one staff person.

Cities: five mayors, two councilmen, and three staff persons.

Public interest groups: three national, four state, and one regional.

Academics: four faculty members.

For-profit groups: three representatives.

Non-profit groups: three representatives.

The first hearing was held in conjunction with an ACIR quarterly meeting in Phoenix. That hearing's topic—"Public Finance and Tax Issues for the 80s"—was chosen to fit a study on strengthening the federal revenue system that was on the Commission's formal agenda.

The second session, a roundtable held during the annual conference of the American Society for Public Administration in Denver, focused on the topic "Government Reform: Are the Old Nostrums Still Valid?", a reflection of ACIR's role in urging changes over the last 25 years. The theme also suggested that perhaps the traditional reform agenda and concepts had run their course.

The remaining three hearings were held in conjunction with the annual meetings of national public interest groups: the National Association of Counties (Seattle), the National Conference of

State Legislatures (Boston), and the National League of Cities (Indianapolis). Each of these sessions focused on the perspectives of these officials about the "state" of state-local relations and the condition of the intergovernmental system.

The dates, locales, topics, and speakers are shown in each hearing's summary. These summaries follow an opening overview chapter that draws together the major themes emerging from the five sessions.

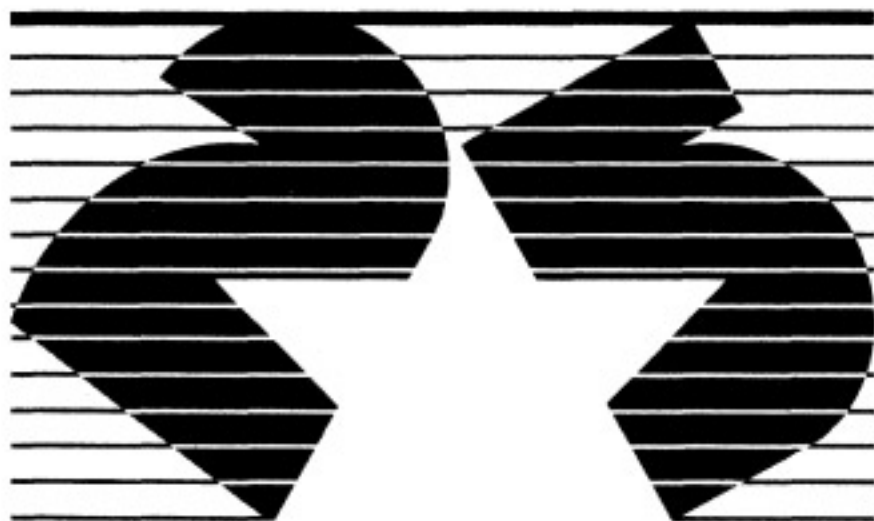
Jane F. Roberts was responsible for the hearings. Donald W. Lief expertly and painstakingly summarized the material presented at the hearings and prepared the written capsules published here. The overview chapter was written by ACIR's former executive director S. Kenneth Howard. Bruce McDowell and Jane Roberts provided editorial assistance. Esther Fried prepared the manuscript.

Our thanks to all of the participants for their observations and ideas offered at each of the

hearings. A special note of appreciation also is extended to those individuals and organizations whose invaluable assistance played a key role in the success of the five sessions: Lin Hallickson Wurbs and the City of Phoenix; Keith Mulrooney, the American Society for Public Administration, and the Denver Partnership; Matthew Coffey, Linda Church-Ciocci, and the National Association of Counties; Earl Mackey, Robert Goss, Susanne Hiegel, and the National Conference of State Legislatures; and Alan Beals, William Davis, and the National League of Cities.

Robert B. Hawkins, Jr.
Chairman

John Shannon
Executive Director



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Federalism Themes In 1984: An Overview Of Five Hearings

The balance of power among the three levels of government in America has shifted with the times and is still doing so. The current struggle to reach a new balance revealed both philosophical issues and operational challenges in five hearings on federalism held in 1984 by the Advisory Commission on Intergovernmental Relations (ACIR). These hear-

Serious fiscal stringencies at the national level are rippling throughout the intergovernmental system, driving the emergence of new relationships throughout the American federal system and bringing economic development strategies to the forefront.

ings were part of ACIR's special activities to celebrate its 25th Anniversary.

Serious fiscal stringencies at the national level are rippling throughout the intergovernmental system, driving the emergence of new relationships throughout the American federal system and bringing economic development strategies to the forefront. This overview of the five anniversary hearings focuses upon those fiscal forces, economic development strategies, and shifts in intergovernmental relationships identified by the participants which likely will be the

Almost unanimously, the witnesses believed that mounting federal deficits spelled an end to the politics of intergovernmental fiscal expansion at the national level.

key factors for the remainder of this decade, and perhaps beyond.

Fiscal Revolution

Almost unanimously, the witnesses believed that mounting federal deficits spelled an end to the politics of intergovernmental fiscal expansion at the national level. Despite concern about national policies dampening federal actions on many fronts, there were virtually no calls for larger federal spending programs or for the national government to assume greater responsibilities for any domestic function. Some speakers also emphasized the need to adopt major procedural reforms to mitigate mounting federal deficits, such as requiring a balanced budget, giving the President line-item veto authority comparable to that enjoyed by many governors, and establishing a separate federal capital budget. Pennsylvania Governor Richard Thornburgh suggested there have been valuable discipline lessons learned and experiences gained at the state level which could be applied to the national level.

The current situation marks a major reversal in the relative fiscal health of the partners in the American federal system. The number of federal grant programs available to state and local governments has dropped by over 140 since 1980, and seems likely to continue declining. In addition, as Figure 1 shows, the relative financial significance of federal aid also has declined over the last several years. But the new element in these hearings is that this fiscal shift has now been recognized as a long-term reality.

State and local officials displayed an

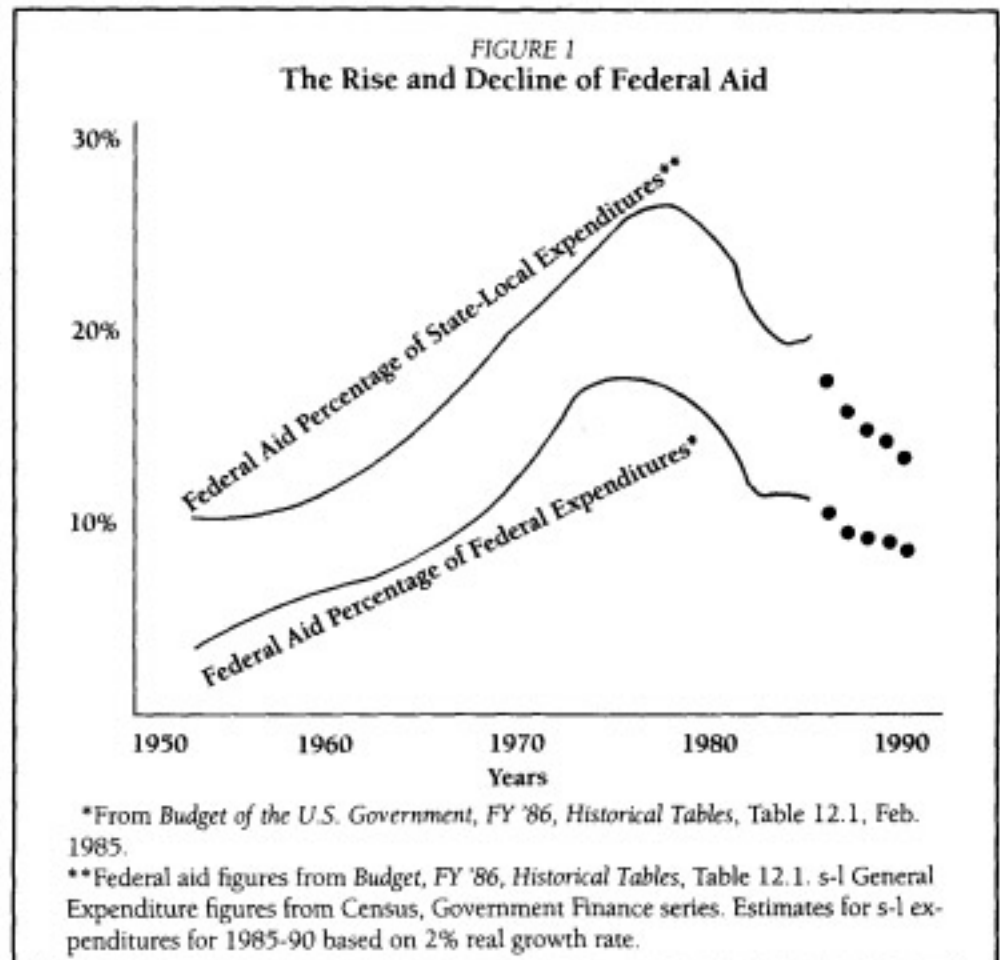
State and local officials displayed an eagerness and a willingness to "get on with governing" in this new fiscal context and to try to move forward—a "fend for yourself" fiscal federalism . . .

eagerness and a willingness to "get on with governing" in this new fiscal context and to try to move forward—a "fend for yourself" fiscal federalism, so to speak. Importantly, this fiscal reality seemed to be causing long-term changes; state and local officials acknowledged it without rancor and seemed to exhibit a renewed energy that comes from encountering serious challenges.

There also was a widespread willingness to explore new ideas, and specif-

ically those which seemed more suited to the revolutionary new consensus about fiscal realities. Time and again there were calls for new strategies and relationships, and the use of terms and phrases such as privatization, co-production, referenda, constitutional amendments, new forms of citizen participation, and separating the "provision" of services from their delivery. Although none of these ideas garnered a consensus, the number and range of possibilities were impressive, reflecting a willingness to experiment and a positive attitude toward the challenges and changes ahead.

Given this context, state and local officials expressed concern about several national issues: inadequate or unsettling transition provisions accompanying de-



clining federal grants; mandates without money; and preemption of state and local revenue sources. Local officials expressed particular vulnerability as they anticipated more mandates without funding from both the state and national levels; state sales tax increases making local collections from the same source more difficult; broadened flexibility in federal grants being negated by tightened state restrictions; and proposed federal tax reforms that would make it harder for state and local governments to benefit from the federal deductibility of their taxes and to utilize revenue bonds.

Economic Development

Economic development—focusing on job retention and creation—clearly has been a major public policy issue for all three levels of government. These hearings returned repeatedly to this topic. Local officials were especially concerned because of the growing reliance on their own local revenue sources. However, their concern went well beyond this revenue generating consideration. Mayors, governors, county officials, and state legislators alike recognized that the electorate is judging them increasingly by their success in securing a broad range of economic benefits for their communities.

However, state and local “boosterism” was tempered by a recession-induced appreciation for the limited efficacy of these efforts when the economy is national in scope, if not global. There

The elements of equity receiving attention included revamping public finances to make needed revenues available at the levels of government having public service responsibilities . . .

also was an appreciation for the limited desirability of having each government make its own way: eagerness and willingness are one thing, but resources are another, especially when federal dollars are being withdrawn. Yet, despite ac-

knowledging how interdependent the economy has become, and the implications of shifts to a service economy and the increasing importance of international markets, little attention was given to national strategies for encouraging economic development.

Emerging Intergovernmental Relationships

The participants in these hearings, almost by definition, were not “centralists” in their orientation toward government. It is not surprising, therefore, that they almost unanimously agreed that dividing powers among the levels of government—as a federal system does—is important to maintaining freedom and making government effective across a nation as large and diverse as the United States. There was less agreement, however, about the best criteria for dividing functions among the levels of government, and determining which activities should be left to the private sector.

Given the emphasis many participants placed on economic development, economic values received great attention, and both economic efficiency and equity were discussed. Greater efficiency, of course, would ease the budget pinch by “doing more with less,” using such approaches as devolution, tax limits, user charges, and co-production. But the countervailing concern, expressed by Arizona Governor Bruce Babbitt and others, was that single-minded focus on efficiency might overlook the need to maintain fiscal equity. The elements of equity receiving attention included revamping public finances to make needed revenues available at the levels of government having public service responsibilities, reducing fiscal disparities among local governments and school districts, devising intergovernmental aid formulas sensitive to the needs of both distressed communities and growth areas, and maintaining an adequate system for intergovernmental cost-sharing for health care and meeting the needs of indigents.

In addition, there were warnings that too much emphasis on economic values might drive out or diminish the recognition of municipalities as sociological and political entities. According to this view, economic criteria should be

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tempered with values for citizen participation and political accountability. Although the difficulties in weighing one value against another were acknowledged, it was noted that the language and values of the marketplace economy do not stress "community" or "nationhood." Individual achievement was lauded, but concerns for one's neighbors also were raised, and the current ascendancy of economic values was readily acknowledged, but not uniformly applauded. The hearings raised a challenge to reconcile marketplace rationales with long-term social values as the relationships among federal, state, and local governments continue to shift.

Federal-State Relations: Adjusting to Devolution

As the federal government has reduced its role in many domestic functions, many of the relinquished responsibilities have passed to the states. The states' growing responsibilities were reflected most notably in comments about tax matters. Most such comments were given in the context of concerns about state autonomy: opposition to a national value added tax because it might reduce the states' ability to generate sales tax revenues; opposition to national restrictions on how the states may tax the income of multinational corporations; and support for continuing the deductibility of state and local taxes, as well as ex-

emptions for interest on state and local bonds in calculating federal personal income tax liabilities.

Federal-Local Relations: Less Money, More Rules

Throughout the hearings, city and county representatives expressed fairly similar views when pointing out the declining role of federal financial support, when commenting upon the local costliness of implementing certain national policies such as pollution control, and when expressing concern over the increasing costs of federal court decisions, regulatory standards, and potential national tax reforms.

These local officials specifically expressed great concern about recent court decisions making them liable—individually and officially—under national antitrust legislation. Most felt that, since this serious liability had been created by the federal government, it should be remedied by that level.

Although city officials generally seemed less anxious about the fiscal future of their jurisdictions than did county officials, they also seemed less enthusiastic than their county counterparts about the Administration's New Federalism policies. Although welcoming the opportunity to chart their own course, especially in economic development, many local officials objected to the devolution of responsibilities unless accompanied by a commensurate increase in financial and legal authority.

State-Local Relations: Growing Importance, Continuing Tensions

It was widely recognized that rapidly changing economic conditions were combining with stabilized or declining federal grants to place the states at center stage in the continuing drama of American federalism. In 1983, ACIR concluded that the states were becoming in-

creasingly pivotal actors in our federal system, and that how they act (individually and collectively) will determine the future "resilience, effectiveness, and political balance in our federal system."¹ That assessment was generally corroborated by witnesses in all the hearings, but whether the states will actually adopt such a positive leadership role was a contested issue. Although most participants acknowledged that states had generally made the changes in their internal structures and operations that the reformers (including ACIR) have advocated over the years, it was emphasized that structural and operational change alone do not necessarily foster leadership or assure a willingness to act.

The Local View. Local officials, in particular, bemoaned the traditional state indifference toward urban areas and foresaw old practices and attitudes re-emerging, especially if the prods of federal grants became less influential. The testimony of local officials gave poignant witness to ACIR's 1983 statement that states will have to provide firmer foundations and leadership for the kinds of "productive state-local-private sector partnerships that American federalism will require in the years ahead."² These officials concurred that the nature and strength of state-local relations will demonstrate whether or not states will play such a role.

Local officials saw power shifting to state capitals as certain policies were im-

own resources the financial support for communities that the national government was withdrawing. Rather, they did see states replacing with their own rules, regulations, and red tape the nationally imposed rules, regulations, and red tape that block grants were designed to reduce.

Local officials also heard their state counterparts talk about the need for local units to have sufficient capacity to deal with their own problems, but they pointed out, for example, that several states were then contemplating changes in state tax policies that might effectively preclude local governments from using the proffered additional capacity, particularly the local option sales tax. Local officials heard about tax "elbow room" from both the state and national levels, but they were less certain they saw it for their own citizens and jurisdictions. For example, former county commissioner, now political science professor, Conrad Joyner emphasized that New Federalism policies are based:

... on some invalid assumptions about the intergovernmental system. One of the more glaring false assumptions is that the states will deal fairly with their local governments. Further, there are implicit assumptions that states will expand local governments' powers, and assist counties in garnering additional and necessary revenues. These latter assumptions simply cannot be validated by experience.

The extent of state supervision over such areas as local tax rates and health services, for example, was identified as a perennial source of friction between states and cities. The concept that local governments are "creatures" of the states increased this friction; a heavy state hand in such matters undermines local responsibility and accountability, weakening the federal system, in the view of local officials.

Throughout the hearings, city and county representatives objected to state (as well as federal) mandates. They also

The extent of state supervision over such areas as local tax rates and health services, for example, was identified as a perennial source of friction between states and cities.

plemented, such as state-administered block grants and nationally imposed volume caps on the amount of industrial development bonds that each state may issue, and they feared the results. They did not foresee states replacing from their

expressed deep feelings that the emerging mood of helpfulness among state officials still was largely untested, and had not improved sufficiently to meet local needs in many instances.

Some differences between counties

... special districts, the most rapidly growing form of government in the nation, drew both praise (for serving vital needs effectively and responsively) and criticism (for complicating the interlocal coordination task and often adding another layer of local taxation).

and cities emerged in the hearings, in part because these types of governments frequently are assigned different responsibilities. For example, county officials felt that their governments often were the neglected part of the governmental structure nationally, receiving insufficient respect and recognition. Major urban counties render just as full a range of public services as major cities, they noted, sometimes even more so as services are transferred from cities to such counties. Counties today, they said, are expected to play a major role in two of the increasingly expensive and expansive parts of the nation's domestic agenda: health care and public physical infrastructure renewal.

Interlocal economic and service disparities and the problems encountered in trying to ameliorate their undesirable consequences were the focus of several participants comments. For example, special districts, the most rapidly growing form of government in the nation, drew both praise (for serving vital needs effectively and responsively) and criticism (for complicating the interlocal coordination task and often adding another layer of local taxation).

State Views and Areas of Agreement. As always, however, the case is not one-sided. State legislators noted

that local governments have been given powers in many instances that they have not chosen to use, especially in home rule states. Under such circumstances, these officials asked: Why should states yield to these local cries for help?

Whether or not states focus more coherently on the problems of local governments, there were signs of some general loosening of the regulatory reins and of greater state-local negotiation and accommodation occurring on such issues as state financial aid and economic development strategies. The usefulness of state ACIRs in the state-local dialogue was cited, and one legislator predicted that a unified front by local officials would win fair treatment from state legislatures.

The hearings also produced widespread agreement that the effects of changes now underway will affect different local governments in different ways, depending largely upon how a state has allocated functional responsibilities among the local units within its borders. Those allocations themselves reflect a state's political ethos. Moreover, the effects also will vary from one geographically identifiable area to another, both between states and between areas within a state. Even within the same state and within its substate regions, effects will vary depending on whether a community is growing, stagnant, or declining.

Conclusion: A System in Transition

The American federal system is currently passing through an exciting, albeit frustrating, period of change and uncertainty. Tight national fiscal realities are compelling much of this transition. The changes which are taking place are focusing leadership responsibilities upon the states, whose responses are still evolving and have not as yet assumed a definite pattern.

There is a general acceptance about the need to change methods of financing and delivering public services, but there

is widespread doubt that procedural and structural reforms alone will accomplish them. That doubt heightens the intensity and significance of the debate about

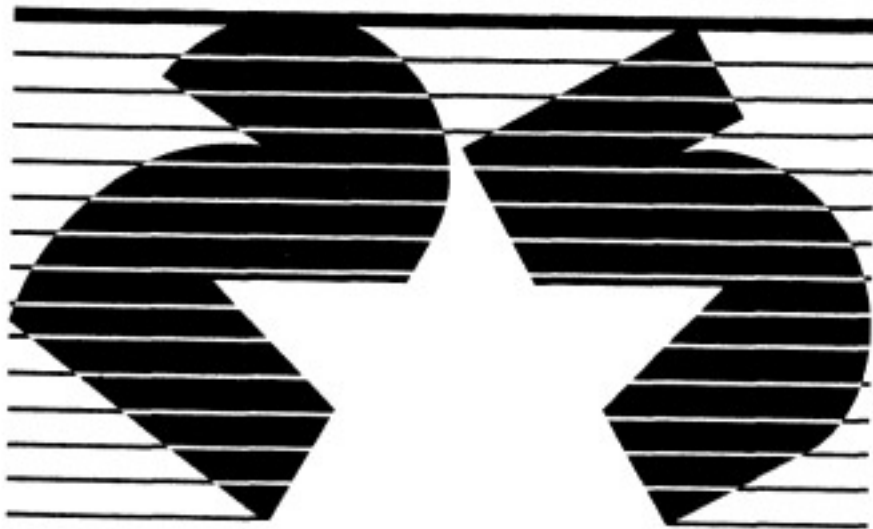
underlying values.

Indeed, the ACIR anniversary year hearings reflected the jumbled richness which is American federalism today.

FOOTNOTES

¹ACIR, *The Question of State Government Capability*, A-98 (Washington, DC: U.S. Government Printing Office, January 1985), p. 401.

²*Ibid.*, p. 402.



**“Government Reform:
Are The Old Nostrums Still Valid?”**

Suite 200
Kittredge Building
Denver, Colorado
April 8, 1984

SPEAKER'S LIST

Robert B. Hawkins, Jr.
Chairman, U.S. Advisory Commission on Intergovernmental Relations

Astrid Merget
Chair, Department of Public Administration
The George Washington University
Washington, DC

Charles Levine
Senior Staff Member, Advanced Study Program
The Brookings Institution
Washington, DC

The second hearing in the ACIR anniversary series was held in conjunction with the annual conference of the American Society for Public Administration. Speakers and participants at this gathering differed from those at the other hear-

A clear consensus . . . Traditional 1960s structural reform is not now viable.

ings because they were not primarily elected public officials. Their insights and conclusions were based less on daily responsibilities than on their opportunity to observe trends. Aware of changes in national policies, program shifts, and the impacts of mandates, speakers sought to place these changes within the context of governmental structures and functions as well as public expectations. As a result, the discussion extended into the arenas of political economies and principles of management as well.

The hearing's format also differed from the other sessions because it emphasized interaction among participants, which allowed distinctions to be made more precisely — an important feature when discussions are unbounded by focusing on such concrete subjects as regulations, appropriation figures, and statutory powers.

A clear consensus emerged among the three major speakers on present and near-term conditions:

- Traditional 1960s structural reform is not now viable. Extensive consolidation of general purpose governments, for example, will not be the route chosen to achieve governmental coordination.
- Innovation is widely accepted, even strenuously urged, in new mechanisms for service delivery. At its furthest reaches, innovation is viewed in terms of privatization of government functions and "co-production" of services.
- State and local governments must

continue to face a fiscal landscape of limited resources; reduced fiscal dependence on the national government must be acknowledged.

- The direct role of the public in government decisions will continue to grow as faith in representative democracy continues.

Behind this consensus, however, lay strong differences in emphasis on economic growth, governmental efficiency, and governmental reflections of diverse social and cultural values. Robert B. Hawkins, Jr., and Astrid Merget each spoke, for example, of the pronounced trend toward private provision of public services, but offered contrasting views about how far this should be encouraged.

Charles Levine, while accepting the consensus as a backdrop for policy, suggested reconciling the "efficiency vs. values" distinctions by reintroducing a normative theory of government that seeks to answer such basic questions: What is desirable about the goals and operations of government? What is government's purpose?

Hawkins challenged most directly the route to structural reform advanced in the 1960s. A self-described champion of special districts, he stated that large cities do not actually attain economies of scale. Consolidation of government does not necessarily result in better planning or greater efficiency. It is therefore appropriate, in his view, that the public devise special districts to solve problems, empowering those districts to raise funds and to distribute services in accordance with the choices of those being served.

Hawkins also stated that citizens play a vital role as "constitution makers" in the process of government. They are the source of the rules under which governments may operate. The federal structure, he said, is not immutable. Thus, as Alexander Hamilton contended, if people are empowered to choose their form of government, public policy analysis should focus less on establishing articles of faith and more on providing po-

licymakers and citizens with information that will allow them to select among alternative ways of conducting the public business. He felt that much of what was produced out of the reform tradition did not hold up under critical analysis.

Managers should be able to be innovative in their strategies.

Because New Federalism appears less significant than "de facto" federalism, the critical intergovernmental issues seen by Hawkins are less federal-state in character than state-local. In looking at future concerns, he identified three key issues:

- *A return to politics.* Citizens should decide what they seek from local government. Hierarchical structures are, to some extent, antithetical to generating that increasingly important sense of community. Organizational questions are subordinate to determining a community's "optimal size."
- *De-emphasis of monopolies.* Management should adopt a flexible stance, emphasizing cooperation in some instances (e.g., interjurisdictional contracts) and competition in others (e.g., public education and health services). Managers should be able to be innovative in their strategies.
- *Enhanced role of citizens.* Far more resources should be devoted to providing roles for the public in producing and delivering services. These new roles do not require consolidating government structures.

Merget urged perspective on our contemporary federalism in which changes in the political economy have produced messy, complex problems for which there are no simple or single best solutions. Today's problems in the federal system arise from several factors, she noted:

- *Systemic change in the economy* based on the emergence of a global economy, the rise in the service sector, high technology — which is comparatively less bound by locational requirements — and bipolarization of income distribution.
- *Differing political cultures* as communities, states, and regions vary greatly in their attitude toward the necessity and legitimacy of government actions.
- *The quest for privatization of traditional governmental roles* through such devices as housing and education vouchers, contracting with private firms, and similar activities.

Merget saw these factors having profound consequences for state and local policymakers: growth in the state and local sector will be constrained; priorities will be reappraised; citizens will insist on more direct involvement in decisions; and traditional political support for deliberate redistributions of resources may suffer as fewer resources become available.

As for federal-state relations, Merget foresaw changes being driven by federal aid cutbacks. Both tax policy and grant-in-aid changes have created disarray among state and local governments. One can look ahead to a realignment of roles, she said. Federal policies premised on the conditions of the 1950s and 1960s may not be germane to the 1980s. Recognizing this incongruity could cause access to revenue bases to be reconfigured and foster new institutional designs.

Given these long-term trends, Merget urged undertaking research that would undergird the inevitable revamping of policies. Such research should highlight the juncture of politics, economics and institutions. Emerging theory would serve to elevate values' visibility and would put forth principles. Efficiency could then be weighed against responsiveness and equity. Finally, research should build on the capacity of pluralism to provide many "natural ex-

periments." Relying solely on aggregated data, she warned, conceals many realities that might emerge with case studies and detailed analyses.

Merget offered specific research topics:

- the viability of existing revenue instruments,
- institutional arrangements,
- political and managerial leadership, and
- opportunities for citizens as collaborators.

For ACIR, Merget proposed continued aggregate studies on public finance and institutional arrangements, as well as greater emphasis on case studies.

Levine asserted that many city governments "are rudderless in a sea of turbulence" brought on by uncertainty about the basic purpose of government. Like Hawkins and Merget, Levine presented the assumptions underlying his statements.

- U.S. cities are part of a world economy.
- Government can do little to influence locational decisions of capital, business, jobs, and housing.
- The geographic size of a locality or of regional delivery systems has little to do with efficiency or citizen participation.

We are seeing the rise and single-minded dominance of the economic rationale in city government decisionmaking—irrespective of the broader social and political considerations that might be addressed by these governments.

- Local revenue and service systems are not inflexible or inexorable.
- The relationship of residents to their local economy and government are not fixed; they vary from service to service and place to place.

As a result, Levine argued, a "mostly closed and fixed" system has become "open and variable." The search for a new equilibrium of relationships occupies the people and institutions that constitute the intergovernmental system. In this search, several schools of thought are contending for dominance, with that of public choice currently the most prominent. Public choice analysis comports well with many cities' strategies for economic development and increased privatization of services. Levine said, "We are seeing the rise and single-minded dominance of the economic rationale in city government decisionmaking—irrespective of the broader social and political considerations that might be addressed by these governments." The sorting-out process inspired by public choice economists makes a certain amount of sense, he said, but it also raises the following serious problems:

- The assumption of a "footloose" population, sensitive to tax burdens, must be qualified. People want to live near amenities, relatives, churches, social clubs, and ethnic groups. Businesses want a productive workforce. Persons in older high-tax neighborhoods, for example, are often willing to pay substantial property taxes to maintain public schools even as their own children attend private or parochial schools.
- The assumption that economic growth benefits all persons can be questioned. Growth helps the "growth coalition" of realtors, developers, builders, and retailers. The landless and jobless may find little benefit in growth.
- Increased expenditures may not improve services. Higher salaries, for example, do not necessarily result in a better workforce. To improve services, imagination is as important as money, so that innovative delivery arrangements, such as co-production, can be undertaken.

For Levine, there is no need to abandon economic logic, but we should “free our civil leaders and managers from its all-encompassing grip and blend the

good creative sociological thinking with economic theory to create a more effective level of city performance.”



“The State Role in Intergovernmental Relations”

Essex Room (Center)
Westin Hotel
Boston, Massachusetts
July 23, 1984

SPEAKERS' LIST

Morning Session (9:00 am)

The Honorable Miles Ferry
President
National Conference of State Legislatures

The Honorable Amy Anthony
Secretary
Executive Office of Communities and
Development
State of Massachusetts

William Stafford
Director of Intergovernmental Relations
Office of the Mayor
Seattle, Washington

The Honorable Gary Thompson
House of Representatives
State of Texas

George Silbernagel
Legislative Fiscal Analyst
State of Louisiana

Shelia Cheimets
Associate Director
Massachusetts Municipal Association

Stevenson T. Walker
Director of Public Affairs
Reynolds Metals
Member, State Government Affairs
Council

Afternoon Session (2:00 pm)

The Honorable Anne Lindeman
Chair, Senate Committee on Education
State of Arizona

The Honorable Roy Hausauer
Chairman
The Council of State Governments

Daniel Hart
Director of Intergovernmental Relations
Office of the Mayor
Boston, Massachusetts

From the evidence presented by speakers at this hearing, including those representing local government, the competence and maturity of state legislatures continues to grow. Senator Miles Ferry stressed "the revolution in state capitals." Representative Roy Hausauer asserted that — despite "consternation among members of Congress" and others — the legislatures are far more institutionally capable of governing effectively. "The reformers' checklists have been achieved in most states."

... the competence and maturity of state legislatures continues to grow.

Longer sessions, better educated legislators, more capable staff, modern facilities, and computerized management have prepared the states "to take their rightful place in the federal system," concluded Ferry. Furthermore, proximity to communities will make legislators more responsive than Washington can be. Hausauer suggested that "we don't yet know if this greater institutional capacity will be translated into commitment to take action." However, he noted that the states already have taken some painful austerity measures and have "biten the financial bullet" to raise sufficient revenues to maintain service levels and to meet newer needs.

Speakers agreed that the new state-local relationship will reflect a better balance than yesterday's; they also agreed that there was much long-term local

... there was much long-term local suspicion of states to overcome.

suspicion of states to overcome. Furthermore, the nature of the emerging shifts in power and attitude are not yet fully understood. Although the mood seems to be changing, problems of attitude are still important.

William Stafford asked, how does a legislature deal with a "media mayor?"

Or how does a mayor deal with "hick legislators?" These traditional problems, he and Ferry agreed, have made the road to Washington more attractive to local officials. Stafford suggested that the atmosphere of state-local relationships has generally been better between mayors and governors than between large city mayors and the legislature. He concluded that the next five years will be critical in shaping the new relationship if it is to succeed. Long-standing differences must be resolved, in terms of geography, philosophy, and partisanship.

State actions on block grants are providing an early test of the new relationship. Said Ferry: "One of our biggest challenges is not to become the big brother, and that we don't prevent funds from getting to localities" under New Federalism policies.

Many speakers reflected their experience with block grants, but there was virtually no specific reference to reductions in federal aid. Shelia Cheimets noted that ignorance of block grants has been a problem in Massachusetts' handling of the Community Development Block Grant. One ACIR member, Mayor Ferd Harrison, expressed concern that legislatures would seek to convert block grants into broader state revenue sharing programs, thus diminishing their impact and value. Stafford questioned the pass-through prospects of block grants at the hands of Washington's state legislature, but he and ACIR member Senator David Nething focused specifically on the opportunity offered by block grants. Each urged that the distribution process for block grants be designed, perhaps under federal guidelines and criteria, to establish a working dialogue between state and local officials.

State assistance still overshadows block grants in fiscal importance. Not surprisingly, the purpose, scale, regulations, and distribution of state assistance are perennial issues.

Senator Anne Lindemann focused on the intergovernmental dimensions of state aid to local school districts and state-inspired efforts at education re-

form. Financing schools and improving education are inseparable, she said, because public pressure for reform is expressed through funding. "But states don't like to give out money without strings," she observed. In education, particularly, the legislature can set the tone for new directions; it can provide incentives for reorganization, including changing the role of teachers.

A brighter fiscal picture for the state does not translate automatically into the same picture for localities heavily dependent on property taxes.

Hausauer noted that state aid to localities had risen significantly but that much of the increase went to school districts. The fiscal analysis of Louisiana presented by George Silbernagel also demonstrated this trend. Total state aid in Louisiana more than doubled in the 1973-85 period but three-fourths of direct state aid went to school districts, not to general governments.

Home rule—the ability of local governments to operate with flexibility and authority—was viewed from several vantage points, both fiscal and nonfiscal. For example, Hausauer saw the linkage between legal and fiscal constraints as a serious obstacle to greater grassroots government. A brighter fiscal picture for the state does not translate automatically into the same picture for localities heavily dependent on property taxes. An important nonfiscal test of state commitment to improved relationships will be whether states give more authority and resources to local governments, especially to those that are hardest pressed.

As described by Amy Anthony, the nature of Massachusetts' local governments strongly determines the relationship between communities and the state. Counties have no direct service role; each town and city provides for its basic functions, many of which are headed by separately elected officials. Many towns

lack full-time administrators or managers. Boards and commissions are highly involved in both developmental and environmental decisions. This structure makes coherent planning and decisionmaking difficult.

The state-local relationship is further clouded by the direct involvement of Massachusetts state agencies in many functions. For example, the state public health department oversees local boards of health, and the state department of revenue approves local tax rates. By contrast, local officials conduct such activities as land use under state policies and standards: e.g., a state building code and wetlands restrictions.

Stafford, Anthony, and Cheimets agreed that state technical assistance programs for localities are essential to improving local capacity, and that they are useful, ultimately, in inspiring greater state confidence in local governments. Anthony suggested that the state "circuit-rider" program that serves consortia of boards of selectmen in small towns does more than ease state-local barriers in Massachusetts; it introduces more cooperation into the traditionally autonomous operations of neighboring towns. The state also has a long-term program of incentive aid to professionalize the management of cities, towns, and school districts.

Hausauer also cited other obstacles to fuller exercise of home rule:

- Courts, especially federal courts, have reduced local autonomy and discouraged exercise of discretionary powers. (Stafford indicated that Seattle might be required to rewrite its entire municipal code as a result of U.S. Supreme Court decisions on the antitrust liability of local governments.)
- Functions below the state level have been "intergovernmentalized" and "privatized" as austerity measures. Local government contracts for service delivery with neighbors or private firms—even if money is

saved—mean a loss of control and independence for the individual government.

Representative Gary Thompson cited the rapid growth in single-purpose special districts as another obstacle to general governments. There are, he said, "some disturbing trends which counteract and prevent government from realizing efficiency in services delivery." He noted the 57% increase in special districts between 1962 and 1982 and compared it to a 6% increase in incorporated municipalities nationwide.

Texas' four largest metropolitan areas—Houston, Dallas, San Antonio, and El Paso—contain about 1,000 independent local governments. This pattern "virtually guarantees haphazard development, duplication, waste, diseconomies of scale, confusion, and conflict." What is needed is "consolidation, not more fragmentation," he said, pointing to counties as having considerable potential to streamline local service delivery. Their expanded role would be a "creative first step" to slow the growth of special districts, a use for which their wider geographic jurisdiction makes them especially well suited. But first, counties themselves must have stronger powers and greater fiscal capacity.

Cheimets offered a contrasting view, that the issue is not always how to achieve the greatest efficiency. People feel very close to their local governments; thus, the smallest government may be justified, not because it is cheapest or the best, but because it is the most appropriate.

... few speakers could claim that state-local relations issues had been resolved.

Seattle's problems with the legislature, Stafford said, were illustrative of the "home rule" issue. The city's legislative agenda contains 44 issues, each involved specifically with state law, including such minutiae as regulating the city's

taxes. Since Washington is basically not a home rule state, an issue can linger for years. His hope was not to keep the state out of the city's business, but rather to encourage a more principled and significant dialogue involving both parties on broader issues such as economic development. He cited the legislature's approval of a convention center to be located in Seattle as "an achievement."

Throughout the hearing, evidence accumulated that clearly suggested a positive trend—active negotiations on state aid, cooperative economic development strategies, and loosening statutory reins on localities. As clear as the trend seemed, however, few speakers could claim that state-local relations issues had been resolved. There was agreement that the coming years would provide strenuous tests and opportunities to institutionalize the trend. Stafford, for example, saw patterning block grants after the programs merged into them, building in discussion of federal requirements between states and their larger cities. Ferry urged local officials—urban and rural—to reach agreement among themselves before seeking state actions. He predicted success for a "united front" of local officials.

Cheimets and Anthony cited several formal steps in Massachusetts, particularly the Local Government Advisory Commission (LGAC), established in 1975, and chaired personally each month by Governor Michael Dukakis. Also cited was the 1978 State Executive Order 145 requiring state agencies considering changes in regulations to inform local governments, using such channels as LGAC, of the financial, legal, operational, and political impacts of possible changes. In addition, the Massachusetts Municipal Association sponsored an amendment in 1980 to prevent the legislature from changing local salaries or working hours, and the 1981 legislature turned the budget appropriations power for counties over to advisory groups composed of county officials.

Gary Thompson's deep concern about coordination of programs between

local governments included a strong endorsement of regional planning commissions. These commissions "are ideally suited to identify more efficient and effective means of serving people and contributing to a stronger regional identification and sense of community purpose." More capable, better funded regional bodies, with legislators as members of some regional councils, should be considered, he said. Ultimately, he foresaw the issuance of bonds by combinations of governments and overall enhancement of public-private partnerships. In national terms, he urged ACIR to support this trend toward regionalization.

As to ACIR, Stafford complimented it for good comparative research, and urged it to convene further meetings that would bring together representatives of states and localities.

Cheimet's updating on the effects of Proposition 2-1/2—by which Massachusetts voters placed a limit on property taxes—provided a valuable case study

that captured both the public's mood and the positive consequences of the "tax revolt." "The voters changed everyone's thinking" about taxes and spending, she said, because "if one puts a lid on property taxes, one must deal with outside influences and forces that spend local funds." The proponents of Proposition 2-1/2 accepted this rationale and agreed to a process that would assess the potential impact of proposed legislation on local governments. It is now understood by all participants that the state must balance its priorities, particularly when it considers actions that would be financed with the amount of aid discussed as part of the budget process rather than being treated as an optional add-on only when there is a surplus.

Cheimet concluded: "The 2-1/2 campaign allowed local governments to tell their story about rising costs and the overload on the property tax." In short, Prop 2-1/2 has brought about a "centralization of anxiety: the state worries more coherently about local government."



“The State-local Partnership: County Perspectives”

Rainier Room
Seattle Center
Seattle, Washington
July 8, 1984

SPEAKER'S LIST

Morning Session (9:00 am)

The Honorable Sandra Smoley
President
National Association of Counties

Clifford Tuck
Director of Intergovernmental
Coordination
Shelby County, Tennessee

The Honorable Scott Fosler
Councilman
Montgomery County, Maryland

The Honorable John Horsley
Commissioner
Kitsap County, Washington

Conrad Joyner
Professor of Political Science
University of Arizona

Larry J. Brown
County Manager
Arlington County, Virginia

Peter Schapiro
County Executive
Essex County, New Jersey

The Honorable Earl Baker
Commission Chairman
Chester County, Pennsylvania

Afternoon Session (1:30 pm)

The Honorable John Stroger
Commissioner
Cook County, Illinois

Carl Young
County Executive
Broome County, New York

Donna Smith
Executive Director
New Mexico Association of Counties

The Honorable James Leventis
Council Chairman
Richland County, South Carolina

The Honorable Margaret Tinsman
Supervisor
Scott County, Iowa

The Honorable Tom Trulove
Member
Washington State ACIR

The Commission's Seattle hearing on July 8 sought county views on current and prospective relationships between local and state governments. Despite divergent experiences shaped by their own state-local traditions, the

... counties are too little considered in policies aimed at local government.

speakers reflected an important and almost universal theme: counties are too little considered in policies aimed at local government. Speakers repeatedly noted two observations about counties: (1) their responsibility for some of the costliest and fastest growing functions of government, particularly health care and infrastructure, and (2) their lack of recognition in discussions of federalism, whether by policymakers or students of government. County commissioners John Horsley, John Stroger, and James Leventis, joined by an ex-commissioner, Professor Conrad Joyner, strongly voiced concerns about broad public ignorance of the emergence of counties as providers of a virtually complete range of urban services.

Horsley pointed out that counties by necessity are deeply involved in programs of economic development, housing and environmental quality. Counties also are the mainstay of America's criminal justice system. "We administer aging programs, job training programs . . . the wheels of American industry would grind to a halt tomorrow if it were not for the county facilities the economy depends on to keep moving."

As another example, in health care services, Stroger noted, counties play a major role. There are 2,000 county health departments, which are major providers of child and maternal health care services. Counties's health care costs in 1981-82 were more than \$20 billion.

The hearing produced many comments about the financial, structural, legal, and administrative conditions with which counties confront their problems.

There was extensive agreement that the relationship with state government is vitally important but frequently uncertain.

County officials expressed a strong feeling of satisfaction with state-county linkages on economic development and, to a degree, on public infrastructure facilities, but they also pointedly criticized the states' actions in dealing with health care and social services. These criticisms dealt with both the level of financial assistance and the stringency of regulations.

County Executive Peter Shapiro stated that county government is severely and negatively affected by the emerging philosophy and shifting signals that mark current intergovernmental relations in economic development and social services. For economic development, counties find that states are more dependable than the national government. Tax-exempt bonds are most important for public facilities—they have become the primary financing mechanism. But many federal actions have served to restructure and distort the bond market, adding to both the cost and difficulty of obtaining capital. Shapiro mentioned tax code changes and the expanded use of tax-exempt bonds by new governmental units; federally created tax shelters and corporations that compete for investment funds; changes in the treatment of capital gains which caused commercial banks to divest themselves of large holdings in tax exempts; and the *Social Security Act Amendments of 1983* which partially removed the tax-exempt status of bonds. He asserted that ending the federal deductibility of state and local taxes would cause a one-third increase in debt service costs and would result in canceling or curtailing important regional and local projects.

By capping the issuance of industrial development bonds, Shapiro said, the national government will put counties "at the mercy" of state governments when they seek to have their local projects approved for such financing within the new ceilings.

Besides calling attention to the importance of counties' access to IDB financing, Supervisor Margaret Tinsman suggested that economic development rests on many functions of government—zoning, tax abatement, development

... the Boulder decision "is the antithesis of home rule" and a deterrent to innovative approaches by local government.

incentives, and regulation—which are distributed throughout the state, county, and municipal jurisdictions. These governments have different, often conflicting, policies and roles. Both she and Chairman Leventis warned that, in taking on more entrepreneurial initiatives, county officials also were confronted with the risk of antitrust suits by developers, for example, who—even if they lose in court—may jeopardize the viability of a project because the very existence of the suit stymies the decision-making process.

Leventis described the *Boulder* decision of the Supreme Court as opening a "Pandora's box" for thousands of local governments:

The unequivocal message is that, under the civil rights and anti-trust laws of this nation, local governments are to say "yes" to the demands of those we have been traditionally called upon to regulate, and "no" to efforts to plan and to cooperate with our neighboring governments.

In short, the *Boulder* decision "is the antithesis of home rule" and a deterrent to innovative approaches by local government.

Leventis, like other speakers, spoke of "doing more with less," and reflected obvious consensus: "We see the demise of the 'politics of fiscal expansion' and recognize the stress and strain of our federal system. . . ." As public officials and providers of services, county officials must adjust to the era of limits—and

provide a disciplined, logical response to getting along and operating governments with fewer resources than had been anticipated, particularly reduced federal assistance. Tinsman said that the major problem is "how to deal with the challenge of county government having to do more . . . while facing dwindling resources and lacking the autonomy to make the necessary structural and tax-related changes to meet this challenge."

Speakers discussed in some detail how counties are dealing with states, in light of slowed federal aid growth and the extensive administrative changes brought about by the series of block grant programs enacted during the past four years.

Joyner—who served previously as a county commissioner for 12 years—was critical of New Federalism, saying it does little for the counties, noting:

. . . (it is based) on some invalid assumptions about the intergovernmental system. One of the more glaring false assumptions is that the states will deal fairly with their local governments. Further, there are implicit assumptions that states will expand local governments' powers, and assist counties in garnering additional and necessary revenues. These latter assumptions simply cannot be validated by experience.

Despite this problem, counties must perform their growing tasks, Joyner noted, often serving as convenient entities to which state legislatures can pass their problems.

Speakers acknowledged the potential of block grants to permit greater opportunities for local decisionmaking, creativity, and innovation. For these county officials, however, the experience in the social services area failed to justify their early optimism. Shapiro felt that in order to attain the policy goals of block grants for social services, it would be essential that the states provide local service agencies with the strongest incentives and the broadest latitude. He implied,

however, that state dictates can be as onerous as federal regulations. In the Social Services Block Grant, "counties found that the states simply assumed the federal government's former role as over-regulator and issued state guidelines,

... state dictates can be as onerous as federal regulations.

which they required as part of the condition for receipt by county governments of the block grant money."

Guarantees of public participation and coordination could have been achieved, he said, by general guidelines—with the counties obliged to reach out to consumers and other logical partners including the United Way and other private service providers. New Jersey, instead, issued detailed, precise instructions to local governments on public participation and coordination. Stroger cited a nationwide survey by NACo that found only two county health directors stating that there was less paperwork as a result of block grants.

Stroger acknowledged the new philosophy behind the relationship between states and the national government—as expressed in block grants—but asserted that he and other county officials needed flexibility to deal with their own local situations. He emphasized that home rule counties in particular should have a greater role in carrying out block grant programs, but he felt that counties had little voice in the process.

Distribution of the funds also was troublesome, according to Shapiro. Although the counties, as noted, are the traditional sources of these services, only 25% of the \$90 million from the block grant for social services in New Jersey passed through the states to counties. Stroger expressed similar concern about the distribution of health care funds to counties in Illinois.

For block grants to attain their stated objectives, local voices must be heard more clearly by the states, according to Mayor Tom Trulove. He reiterated

the concern of local officials that, under block grants, state concerns may be given a higher priority than local ones, resulting in reduced flows of federal funds to the localities—whether county or municipal.

Clifford Tuck, a veteran of 18 years as Shelby County's (TN) intergovernmental coordinator, spoke to the issues of coordination and block grants from a somewhat different perspective. Implementation of the new process to replace OMB's long-standing A-95 review worked well in Tennessee, partly due to the long prior relationship between his county and the U.S. Office of Management and Budget. As a result, state officials were clearly informed that the local role should be important in the new process.

As to block grants, however, he said that recipient governments had to deal with numerous problems. He cited more regulations, unfair grant distribution criteria, short application deadlines, and excessive auditing. Nationally, these shortcomings seem to be widespread. In his opinion, this result was abetted by the states' unwillingness to allow serious, extensive local government participation.

Tuck sharply questioned the entitlement criteria of the Community Development Block Grant program, contending that they discriminate against major urban counties. He regarded these criteria as an example of "disenfranchisement" by statutory or regulatory restrictions.

Tuck also noted that only with a serious partnership would block grants work to the fullest extent. So far, he said, only eight states had a system of block grants that allowed more decisionmaking at the local level with locally set priorities.

Joyner testified that, while serving as a commissioner, he found that many county officials would rather deal with the national government than with their state. National leaders, he said, are too unaware of why this attitude persists. He attributed it to the reluctance of both national and state politicians to provide

counties with "the powers and resources for the jobs for which governments closest to the people are supposed to be best suited." Equally frustrating, he added, is "the unwillingness of local voters to decide how they want to structure their counties and what services they should provide." Trulove included the need for greater home rule authority as a continuing issue throughout the 1980s.

Donna Smith spoke to several factors that inhibit counties in New Mexico: (1) all county officials serve two-year terms, despite many efforts to lengthen some of their terms; (2) only five counties have ordinance-setting authority; (3) taxes are reduced or raised by county officials only after the state legislature sets the parameters; and (4) counties cannot initiate tax relief or reimburse tax relief without state approval. Counties must look to the legislature for broader taxing authority and for support of local initiatives in private jails, landfills, and economic development. Traditionally, however, New Mexico's legislators, if well informed on an issue, will cooperate with the counties. Smith noted that New Mexico's voters would vote in November on a constitutional amendment that would prohibit the state from mandating local government programs unless funds were provided or local governments were empowered to raise the necessary funds. (The amendment subsequently passed.)

Speaking generally, Joyner recom-

State . . . (ACIRs) were seen by several witnesses as providing important links between local and state officials, even to the extent of making home rule prospects more promising.

mended that counties be given broad home rule authority. Without such power, counties cannot do what legislatures tell them to do. Ultimately, he said, the political issue of home rule is important because without it the electorate

loses control of its affairs and is served by unresponsive or irresponsible government.

In Iowa, Tinsman commented, the basic county commission structure throughout the state was established in 1870 but "one size does not fit all." Although structural change and increased taxing authority are options for counties, she asserted that the commission system itself may need to be changed "to reflect the tremendous changes in governmental business and relationships between the public and private sectors."

Leventis praised South Carolina's Local Government Act of 1975 that provided home rule authority. Already, he noted, 29 of the state's 43 counties have adopted the council-administrator form of government "which emphasizes professional management." However, he still feared that the lack of home rule authority among counties would continue to make it less easy for counties to be adaptable at a time when innovation was necessary in the public sector.

State advisory commissions on intergovernmental relations (ACIRs) were seen by several witnesses as providing important links between local and state officials, even to the extent of making home rule prospects more promising. For example, Iowa's ACIR is studying the future of county government, and will recommend administrative and legislative steps to help counties resolve their problems.

Although questioning its optimistic assessment of block grants, Tuck spoke favorably of the relationships encouraged by Tennessee's ACIR. In the State of Washington, Trulove said, the 21-member commission has been an important means of information exchange between state and local officials. He described it as action-oriented, with "remarkable success" in solving problems within the state's intergovernmental system. He attributed this success to Governor John Spellman who chairs each meeting.

Trulove, a member of the Washington ACIR, listed several issues that

would likely be of major continuing importance to state and local government relationships: infrastructure, pension funding, disposing of hazardous materials and solid waste, the legal and judicial system, home rule and local control, and comparable pay for comparable worth.

Altogether, he said, these pressing, complex issues—despite their differences in focus, clientele, and visibility—could well be distilled into the single issue of the 1980s: intergovernmental fiscal relations and matching responsibilities with financing capacity in each unit of government.



“State-local Relations: The Cities’ Perspectives”

Room 145-146
Indiana Convention Center
Indianapolis, Indiana
November 27, 1984

SPEAKERS’ LIST

The Honorable William Althaus

Mayor
York, Pennsylvania

The Honorable Luis Zapata

Councilman
Fort Worth, Texas

Professor David Caputo

Department of Political Science
Purdue University

Larry Conrad

Vice President for Corporate Affairs
Melvin Simon and Associates
Indianapolis, Indiana

The Honorable Rose Besserman

Councilwoman
Vancouver, Washington

The Honorable Max Chiddister

Mayor
Goshen, Indiana

Michael Carroll

Director of Community Programs
Lilly Endowment, Inc.
Indianapolis, Indiana

Donald Slater

Executive Director
League of Minnesota Cities

The Honorable John M. Mutz

Lieutenant Governor
State of Indiana

Nancy Smith

President
Indiana League of Women Voters

The Honorable William Hudnut, III

Mayor
Indianapolis, Indiana

Stanley York

Executive Director
League of Wisconsin Municipalities

Although this regional hearing took place after the 1984 elections, participants gave no indication that they expected the election results to alter the trends of recent years—lessened federal assistance, pressures from costly mandates imposed upon local governments by the state and the courts, and greater visibility for tax policy in economic development.

On balance, the policy thrusts of New Federalism—consolidating categorical programs and devolving power to states—received only modest attention. Because speakers were chiefly city officials (or their spokesmen) they perhaps reflected the fact that the new working relationships engendered by grant reforms rest more heavily on states and counties than on cities.

City representatives expressed greater interest than counties in economic development, particularly opportunities for public-private partnerships. Professor David Caputo asked: What are the essential factors to produce meaningful economic development through such partnerships? Mayor William Althaus noted that his city has one of the seven enterprise zones created in Pennsylvania. Lieutenant Governor John Mutz described Indiana's successful economic development program that provides grants to smaller communities to organize their efforts. Councilwoman Rose Besserman, Althaus, and Donald Slater each commented that recent changes in the tax treatment of industrial development bonds posed a serious obstacle to some communities' economic development strategies.

. . . public-private cooperation and formal joint involvement is essential for successful projects . . .

Councilman Luis Zapata recounted an important example of public-private sector cooperation in solving one of Fort Worth's (TX) most pressing infrastructure problems. Developers agreed to donate land along the right-of-way of a

new airport-to-downtown freeway, and to build six lanes of frontage road during development. The value of the donated land alone was estimated at \$50 million.

The range of the private sector's involvement was illustrated by Larry Conrad and Michael Carroll. Conrad, involved in major projects in many cities, insisted that public-private cooperation and formal joint involvement is essential for successful projects due to their physical scale and financial complexity, particularly in older downtowns. He said that rejuvenated cities must have functional downtowns, good transportation, housing, economic opportunities, and urban amenities. Municipal officials and private businesses can pool their resources "to find the right formula to make it work," he said, pointing to Indianapolis as a prime example.

Carroll explored another element of the private sector, the nonprofit foundation. He summarized the essential niche filled by the Lilly Foundation in Indianapolis. The scope of its support, which even extended to helping the city obtain the matching share required by federal aid programs, flows out of its philanthropic interests: religion, education, and community development. As the country's sixth largest foundation, Lilly has committed more than \$80 million over the last decade to Indianapolis. According to Carroll, the lessons learned from the partnership include:

- local foundations can play a significant role in influencing corporate, financial, and other philanthropic entities to adopt a community orientation;
- the more partners in a strategy, the stronger the chance for success;
- foundations—within the scope of their missions—use resources to forge effective partnerships, to take risks in the community interest, to leverage other opportunities, and to be catalysts for overall community decisionmaking; and

- organized private-sector participation in the community interest requires collaborative institution building and innovation in attacking problems.

Caputo spoke to a different dimension of public-private cooperation: private responsibility for public services. "The basic question is whether the private provision of city services is as efficient, effective, and equitable as the public provision of such services," he said. More research and analysis must be given to the subject before firm conclusions are possible.

A cluster of issues also emerged from other speakers:

- **Tax policy.** Besides less flexible treatment of industrial development bonds, the prospect of ending deductibility for state and local taxes drew the concern of Althaus. Mayor Max Chiddister warned of further assaults on state and local funding sources. Stanley York extended this concern by questioning the propriety of uncritically expanding tax expenditures while appropriations for state and local assistance were vulnerable to cuts each year.
- **Courts and mandates.** Caputo found it reasonable "to expect the judicial branch to increase its activi-

plying the *Fair Labor Standards Act* to state and local governments as serious obstacles to officials' ability to manage.

- **Women's issues.** Nancy Smith listed four areas of concern to the Indiana League of Women Voters: pay equity, day care programs, the effectiveness of job training programs, and cutbacks in family planning services.

The question of cuts in federal assistance also was raised by Chiddister, Besserman, Althaus, and Slater. Although individual programs such as General Revenue Sharing were mentioned, the greater problem clearly was seen to be the cumulative effect of reduced federal and state assistance; national leadership suggesting that the public wants less government; and mandates imposed on localities by other levels of government.

Slater asked, "What does one conclude from the observance of this trend of the shucking off of responsibilities on local government without providing resources to cities to pay for them, and the increased complexity of newer mandates?"

Noting a general distrust of responsible local government, Slater concluded that home rule is substantially threatened because local officials "become more willing to appeal to the state legislature to accomplish local policy objectives (through local bills) than to use home rule authority."

Besserman, Smith, and Chiddister also addressed mandates. Besserman noted, in some cases, financial support has been reduced by federal and state governments but the programs' statutory requirements and regulations remain the same or "have been enhanced." Smith and Chiddister called attention to Indiana's legislative actions which mandate local programs but provide little or no state funding. Smith expressed particular concern about the mandates requiring counties and townships "to foot the bill"

... home rule is substantially threatened because local officials "become more willing to appeal to the state legislature to accomplish local policy objectives (through local bills) than to use home rule authority."

ties." Without question, he said, "the courts will have a definite say in the nature of federalism." Chiddister cited the court decision on municipal antitrust immunity and the likelihood of a similar decision ap-

for indigent health care and assistance to the poor. Indiana localities are still restricted in both their revenue sources and management latitude, according to Chiddister.

The current condition of state-local

Mandates and the impact of policies initiated by other levels of government mean greater confusion, frustration, and lack of confidence in government at every level, . . .

relations, as seen by the cities, has some bright spots but is not necessarily improving, according to several speakers. The gloomiest assessment came from Slater who paraphrased journalist Neal Peirce:

Conditions under which cities are required to operate in relation to state and federal levels have become so difficult and complex and present so many contradictions to local accountability that it is questionable whether cities will long have the means, the "liberties," or opportunity to work on behalf of local needs and interests. Mandates and the impact of policies initiated by other levels of government mean greater confusion, frustration, and lack of confidence in government at every level, and a growing disregard for the ability of public institutions to serve individuals or community interests.

Chiddister captured the essence of this view by citing some Indiana communities which face having penalties for inadequate water sanitation levied against them by the same agencies that assign them low priorities to receive state or federal assistance. "Passing the buck," he said, only increases citizen frustration with government.

Besserman recited comparable situations in the State of Washington, where state mandates are extensive. Cities, for example, must adopt a local criminal

code that "essentially duplicates the state code. The main reason behind this is to force cities, and not the state or counties, to absorb the cost of prosecution and incarceration." The state drunk driving law is enforced by localities which bear these costs without state help. Other examples, she continued, are secondary and tertiary sewage treatment standards, laws to control domestic violence, and higher standards for jails.

Besserman, however, offered some good news. Washington's legislators and administrators are sympathetic to city economic development efforts, and have allowed sales tax expansion. Chiddister, although critical of the state government, spoke favorably of recent Indiana legislation that provides substantial administrative latitude, and gives local governments an alternative revenue source if property tax revenues are insufficient.

The most positive picture of state-city relations was offered by Zapata who said that Texas is the leading state in respect to the authority of its cities to conduct their own affairs without interference. Cities have broad financing discretionary authority, and are largely unsubjected to state collective bargaining laws, civil service requirements, and other personnel strictures. Texas cities, however, are less favored in their latitude to decide the number and extent of municipal services without state supervision. Because Texas is a low tax state, Zapata saw the lack of state assistance as the most important problem in city-state relations; the local discretionary power was the most positive element in the relationship.

In Washington, Besserman said, restrictive and largely unworkable state annexation laws have led to a situation where cities provide many urban services to unincorporated areas which, by their subsequent population growth, require additional services such as streets and public safety. Thus, "cities are faced with an increasing divergence of their effective service area and actual tax base." She pointed to federal policies and programs, often with local acquiescence, as

the cause of sprawl and growing infrastructure problems.

Caputo called for more attention to structural reform—consolidation, annexation or other forms of change—to alleviate such problems. The issue, how-

... cities are experiencing anxiety but not panic about their fiscal future, ...

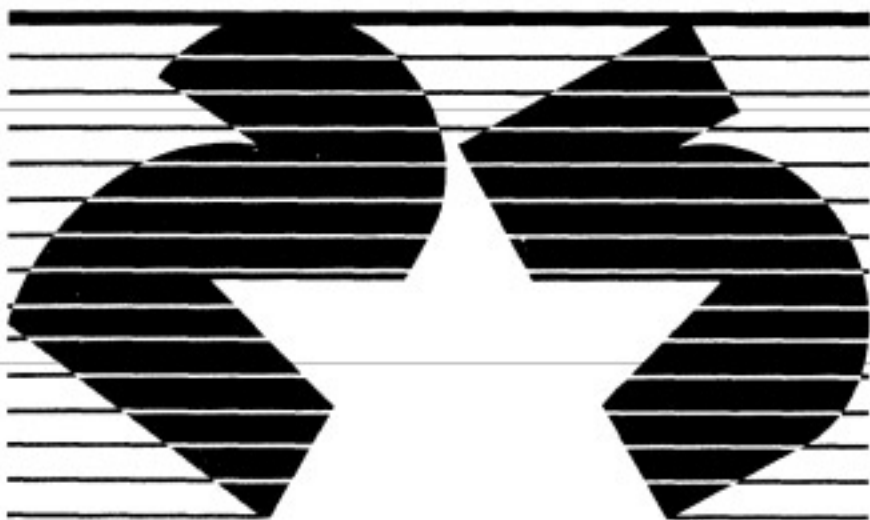
ever, drew little attention from others.

Three speakers offered recommendations to ACIR for follow-up action:

- Smith urged a study of the federal budget process and its effect upon state and local governments. She called attention to how the annual federal budget process created uncertainty for long-range financial planning.
- Caputo urged that ACIR fund research in the dynamics of economic development under changing technological conditions; assess strategies for structural changes and how these changes may affect federal, state and local relationships; develop a research agenda that contains longitudinal as well as case study perspectives; and emphasize research that treats the city in a holistic way, considering the relationship between economic development, structural change, and increased citizens participation.

- Chiddister spoke more about ACIR's role than its research. He believed ACIR should continue to compile, collect, analyze, and disseminate information about what has occurred on the pertinent issues. He noted that ACIR would be an excellent medium to expand a needed constructive dialogue between all levels of government about their appropriate roles. Finally, given the growing importance of state-local relationships, he felt that ACIR should assist these governments in finding mechanisms for increased cooperation and mutual assistance.

On balance, the hearing gave evidence that cities are experiencing anxiety but not panic about their fiscal future, and are less than enthusiastic about the impact of New Federalism policies at both the federal and state levels. Cities clearly welcome greater opportunities to chart their own course, especially in economic development, but the devolution of responsibility is seen as a mixed blessing if fuller financial and legal authority are not forthcoming. The consequences of national policy, tax laws, court decisions, regulatory standards, and state mandates are all felt in city halls. Local officials object to the way things seem to have "trickled down" in the past, but they have forebodings about a future flood that would be even worse.



“Public Finance And Tax Issues For The 80s”

Phoenix City Council Chambers
200 West Jefferson Street
Phoenix, Arizona
March 1, 1984

SPEAKERS' LIST

Morning Session (9:30 am)

Governor Bruce Babbitt
Arizona

Mayor Terry Goddard
City of Phoenix, Arizona

Governor Richard Thornburgh
Pennsylvania

Mayor George Renner
City of Glendale, Arizona

Representative Walt Miller
Majority Whip
South Dakota

County Supervisor Margaret Tinsman
Chairperson
Iowa Advisory Commission on
Intergovernmental Relations

County Commissioner Milles Gregory
Chairman
North Carolina Local Government
Advocacy Council

Christine Gibbs
Government Representative
Salt River Project, Arizona

Philip Haggerty
Assistant City Attorney
City of Phoenix, Arizona

Fred Pfeiffer
Chairman
Texas Advisory Commission on
Intergovernmental Relations

Fred Stickel

Vice Chairman
New Jersey County and Municipal
Government Study Commission

Afternoon Session (2:30 pm)

County Supervisor Sandra Smoley
President
National Association of Counties

Kent Conrad

Commissioner
North Dakota Department of Taxation

Mel Morris

Executive Director
Arizona Tax Research Association

Jim Maddy

Executive Director
Western Governors' Policy Office

Robert Beauvais

Office of the Lieutenant Governor
New Mexico

Harry Green

Executive Director
Tennessee Advisory Commission on
Intergovernmental Relations

Paul Moore

Executive Director
New York Commission on State-Local
Relations

Taxation has long been at the cutting edge of Americans' views of government. The Boston Tea Party helped ignite the American Revolution. Shay's Rebellion ripped Massachusetts into accepting the Constitution; the "Whisky

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Insurrection" forcefully established federal authority over states. These pivotal events all stemmed from resentment toward taxes.

Topics raised at the Phoenix hearing, the first of the anniversary series, focused on public finance and taxation, ranging from fundamental principles of tax policy to the impact of that policy on the operations and purposes of states and localities. The picture that emerged was one of state and local officials attempting to carry out their responsibilities with a degree of stability in the face of rapidly changing and uncertain tax policies.

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Participants emphasized how fundamentally important federal tax policies are to state and local finance. Those policies allocate the revenue base among levels of government. They affect the capacity of the national government to provide assistance to states and localities. They shape the authority and capacity of states and localities to devise mechanisms, such as industrial development bonds and sale-leaseback arrangements, to advance economic objectives. Financial actions of state and local governments rest on the foundation of national tax policy, according to many witnesses.

Despite this broadly held view, testimony differed as to the appropriate objectives of national policy in regard to state and local governments. Mel Morris of the Arizona Tax Research Association said that tax policy should stimulate nonfederal governments to raise greater resources from their own jurisdictions. Mayors Terry Goddard and George Renner urged that state-local taxing authority not be preempted by a national sales tax.

Governors Bruce Babbitt and Richard Thornburgh set forth their principles to deal with contemporary public finance policy. For Babbitt, tax policy should take into account equity considerations, the effects of various types of taxes on enhancing economic activity, and the intergovernmental implications of tax policies. In the rush to raise revenue, he said, these issues are generally ignored in Washington.

Thornburgh offered three means of alleviating the federal deficit dilemma: a balanced budget amendment to the Constitution; line-item veto authority for the President; and a separate capital budget. The Pennsylvania Governor also suggested that major structural flaws underlie the national budget debate. These flaws "inhibit the very process of fashioning a sound federal budget even in the best of times. These flaws are curable. (They) can be relatively swift and painless. And they are time-tested by long use in the majority of state governments." As to the separate capital budget, he cited the General Accounting Office conclusion that it could reduce the current deficit by at least \$30 billion.

The theme of economic development was repeatedly stressed during the presentations, and widespread criticism was offered about the changes in the tax treatment of industrial development bonds (IDBs). The changing definition of those public purposes qualifying for tax-exempt status and the volume ceiling for IDB issues that was placed on each state drew fire from Fred Pfeiffer, Supervisor Maggie Tinsman, Supervisor Sandra Smoley, Representative Walt Miller, and

Goddard and Renner. Mel Morris, however, sharply challenged the practice of incurring debt without full public approval. He said that Arizona's municipal property associations, formed and controlled by city governments, are "a total subterfuge to bypass debt limitations and requirements for voter approval." As a result, he said, "our ability to justify revenue bonds seems to be unlimited."

Clearly, the sentiment strongly favored more flexible federal tax treatment of IDBs, particularly when their proceeds are used to finance public capital facilities—so-called infrastructure. Maintenance of these facilities also drew attention, but the financial approaches varied. Targeted federal aid for maintenance was only one of the suggestions.

The changing environment of public finance was captured by Commissioner Milles Gregory who observed:

... we are in a new public financing era in (North Carolina) as well as in the entire nation—one in which responsibilities for financing essential government services will increasingly fall on state and local governmental shoulders, and one in which financial resources are increasingly limited.

Christine Gibbs introduced the complex issue of cost-sharing for multiple-purpose projects: who will benefit and how will cost repayment be carried out? Major public infrastructure projects such as the Central Arizona Project, she noted, operate under different cost-sharing rules. Thus, economically justifying multipurpose projects entails contending with intricate cost-sharing arrangements.

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Furthermore, the resulting concepts might ultimately be extended to other services.

Harry Green presented an agenda for Tennessee in the 1980s:

- improved education funding,

- reform the state tax system,
- reduce the range of fiscal disparities among local governments and school systems,
- review and modify formulas for state aid to local governments and for state-local shared taxes, and
- establish a system for intergovernmental cost-sharing for health care for the medically indigent and medically needy

Fred Stickel suggested that tax and expenditure limits be addressed in the context of the broader fiscal issues confronting the states. He favored examining some structural issues which have been ignored in the past. These include: Who has the responsibility for providing services? What are the pros and cons of service consolidation or regionalization? How sacred and immutable are state mandates? What is the appropriate state-local fiscal planning process needed to deal with current fiscal conditions? Unless these issues are dealt with, he contended, instituting tax or expenditure limits—or both—will only produce hardships for local officials.

Recent reductions in federal assistance programs drew less attention at this hearing than at most of the others. Only Goddard spoke in detail of the importance of federal aid, noting that about 12% of Phoenix's operating budget comes from this source. He focused on the programs rather than on the cut-backs themselves. He emphasized the need to assess changes in terms of their impacts on state and local governments because "any sudden change in federal fiscal policies could have a catastrophic impact. . . ." The federal government must assure that efforts to balance the budget not "unfairly shift the tax burden to state and local government."

To protect the interests of states and localities, Goddard offered "basic guidelines":

- Any reduction in currently funded programs should allow for gradual

transition and permit alternative funding sources.

- Federal mandates should be accompanied by federal funding.

... counties [should] be given "the authority to levy appropriate fees, rents, tolls, licenses, sales taxes, personal income taxes, or excise taxes at their discretion."

- Programs delegated to states and localities should be accompanied by sufficient funding.
- Congress should not enact legislation that preempts state-local taxing authority without compensation.
- Distribution formulas must be equitable both to distressed and growing cities; they should reflect increasing demand for services and not disregard growth factors.
- Federal aid for infrastructure maintenance must continue.

Stickel argued generally for a substantial level of national assistance to "provide our local governments with the resources necessary for them to carry out their responsibilities. Experience indicates that broad-based funding is preferable to local property taxes. More state and federal aid can only lessen the unequal tax burden inherent in our combined, local, state, and federal system."

Smoley addressed the issue of state-imposed constraints on local governments. State legislation, she said, should follow ACIR's recommendation that counties be given "the authority to levy appropriate fees, rents, tolls, licenses, sales taxes, personal income taxes, or excise taxes at their discretion." Smoley added:

"Too often, we have found the state reluctant to provide this flexibility. . . . At times, states may provide the authority but corresponding

state taxes may already be at far too high a level to permit any feasible additional surcharge. Consequently, counties can often be squeezed out even though the authority has been granted."

Stickel presented a case study of state-imposed limits on municipal expenditures and county property taxes. New Jersey's cap laws were designed "to provide a balance between constraints on spending and the ability to provide essential local services." The laws, regarded as experimental, included a sunset provision, but in 1983 were renewed until 1986. The New Jersey County and Municipal Government Study Commission monitored the effect of the ceilings for eight years, reaching several conclusions:

- Local governments shifted operating expenditures, such as office and recreational equipment, and vehicles, to the noncapped capital budget.
- Local governments deferred the maintenance and improvement of physical facilities.
- There was an increase in the formation of special districts.
- Local governments shifted to user charge financing whenever possible.
- There were reductions in personnel, first by attrition, then by dismissals.
- The upward trend in property tax rates until 1976 was reversed.

Gregory also demonstrated the geographic diversity of state approaches to local finance. Since 1978, the North Carolina Local Government Advocacy Council (LGAC) has identified issues of local importance and has advocated the views of local government directly to the governor and his cabinet. (The LGAC differs from a state ACIR in that it is controlled by local officials.) One recent example of LGAC efforts was the enact-

ment of state legislation in 1983 authorizing counties to raise sales taxes. By early 1984, 88 of the state's 100 counties had enacted new sales taxes. Gregory also indicated that the LGAC will conduct a "definitive study" on state-local relations in North Carolina.

... the representative tax system (RTS), ... "a weapon" to promote regional conflicts.

Harry Green, of the Tennessee ACIR, reported on its study that found that "the structure of state and local taxation is not fair; it is unnecessarily complicated; and it does not generate adequate revenues." The principles set forth by the TACIR task force for taxes were: equity, adequacy, and simplicity. Tax neutrality, although important, was found to be less urgent. One of TACIR's revenue issues is to reduce disparities among local governments and school systems.

Although it affects business-related activities more than public finance, the question of municipal antitrust liability was examined by Miller and Philip Haggerty. The latter presented a detailed analysis of the issue, and offered sugges-

tions for ACIR policy recommendations.

Several witnesses urged ACIR either to adopt specific policy positions or to undertake studies. Kent Conrad, deeply involved in the issue of unitary taxation of multinational corporations, urged ACIR to reiterate its support for the view that there be no federal interference with states' Constitutional rights to determine their own tax policies. Fred Pfeiffer asked ACIR to adopt language on both general obligation and revenue bonds that supports tax exemption to "sustain bona fide governmental functions."

Speaking for the Western Governors' Conference, Jim Maddy reviewed ACIR's past work in developing the representative tax system (RTS), and concluded that it is currently being used as "a weapon" to promote regional conflicts. Using the RTS in federal aid formulas would cause substantial shifts in federal assistance, he said. Because such applications were not anticipated in the research, he urged ACIR to deal with the flaws of the RTS so that it could serve better as a measure of fiscal capacity. In addition, he felt ACIR should examine the question of "need" which he deemed integral to any discussion of fiscal equity.

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 28 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 states 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 ad-

ministration, and reduced compliance burdens upon the taxpayers.

Studies undertaken by the Commission have dealt with subjects as diverse as transportation and its specific as state taxation of out-of-state depositories as wide ranging as substate 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.

