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federal controls through grant programs and preemption of state and local laws and regulation. This raises the question of where support for devolution of federal power is likely to come from.

One potential source is from national leadership and national political parties. It is possible that the collection of pragmatic decisions on particular issues results in an overall situation of government regulation and/or spending and/or disenchantment with the federal role that makes the situation an attracti issue for a political party and/or political leadership in a party. The situation in the United States has probably reached this point, although it is unclear how long the situation will last.

It will be recalled that President Carter obtained the Democratic Party nomination against a variety of potential opponents who more closely reflected the national Democratic Party's close association with activist federal policies dealing with social welfare and the growth of federal programs in the Kennedy and, particularly, Johnson years. Carter's primary campaign emphasis was strongly anti-Washington with stress on state and local control and a less active federal government in many areas of domestic policy.

Carter's presidential term was a mixed bag in terms of the administration's action on federalism issues. The administration encouraged the expansion of employment and training programs, particularly, and promoted the use of state and local government in counter-cyclical policy through local public works and public service employment programs. At the same time the administration supported a number of proposals to consolidate categorical assistance programs into block grants and implemented some measures to reduce the quantity of regulations and conflicting guidance by federal agencies to state and local government. However, this approach did not carry over into some issues of particular interest to Alaskans, such as public lands issues. Throughout his term, however, Carter used themes of restraining the size of government and increasing the efficiency of the federal government.

The themes of the Reagan campaign for the nomination included considerably more hostility to federal domestic programs generally than characterized the views of his primary opponents and the last Republican administration (Ford's). This rhetoric was also reflected in the campaigns of many persons running for Congress in 1980. The rhetoric began to become reality in 1981, as campaign themes were reflected in appointments to federal positions, administration positions on federal legislation, administration of existing legislation, and new proposals for "sorting out" the federal system that are discussed in detail in the next chapter of this report. In addition, many of the administration's positions on issues such as public land management were considered

favorable by state offficials.

Obviously, a president and a substantial number of members of Congress were taking themes of smaller government and less intervention in state local affairs seriously, believing these positions to combine political appeal with substantive soundness.

State and local officials were also altering their views on federal programs and regulation, although views of individual state and local leaders differed, as they always had. These officials were aware of growing public hostility to spending at all levels of government, as reflected in votes for such expenditure and tax limiting proposals as Proposition 13 in California and Proposition 2-1/2 in Massachusetts. They were also becoming increasingly concerned over federal regulations affecting their day-to-day actions in local government.

This change was reflected in a number of different state and local leadership positions. Among Republican governors, there was no real replacement for Nelson Rockefeller who had been an influential advocate within the party for additional federal programs. Leadership among the Republican governors tended to fall to men like William Milliken (Michigan) and Richard Snelling (Vermont) who stressed themes of efficiency, management, and a reasonably trim public sector. Among Democratic governors, there were fewer governors aggressively seeking additional federal assistance, and more, such as Governors Busbee (Georgia) and Matheson (Utah), also scressing management themes. At the municipal level, mayors such as Carver of Peoria came to play major roles in the National League of Cities. Organizations such as the League of Cities, National Conference of State Legislatures, and National Governors' Association began to stress intergovernmental management more and expanding federal programs less in their relations with the federal government. This change affected the U.S. Conference of Mayors less, but the presence of officials such as Mayor Koch of New York, also tended to moderate the demands for additional federal programs by local officials.

One result was that support for new federal programs and added funding for existing programs was no longer automatically forthcoming from state and local officials. Elected officials and their organizations also took steps to limit the lobbying of appointed officials for programs in their particular areas and began serious consideration of proposals to "sort out" the federal system. Criticisms of federal administration of grant programs multiplied. As is the case with national leadership, however, one cannot predict with certainty how long this environment will last.

THE IMPACT OF THE FEDERAL BUDGETARY SITUATION

The condition of the federal budget has had major impacts on federal-state relations in the post Korean War period, particularly in the area of federal grants to state and local governments. The end of the Eisenhower administration probably marked the end of a period in which there were political constraints of major proportions against expansion of federal aid to state and local governments. From that point on, through administrations of both parties, less was philosophically at stake and much more depended upon specific circumstances surrounding individual federal intervention issues.

One key circumstance was that the federal budget was financed primarily by revenues from a highly progressive federal income tax. As a result, revenues rose much faster than gross national product and the federal role in the economy would automatically grow every year unless tax rates were cut. The worse inflation the nation encountered, the more this effect swelled federal revenues. Planned deficits were also acceptable, particularly when it could be shown that the deficit would disappear in a few years because of the growth of federal tax revenues without any change in rates, as was shown for deficits in the 1960s and 1970s.

So long as no one objected to an increasing federal share of Gross National Product (GNP), growth of federal grants could continue without squeezing other items in the budget. Thus, despite periodic tax cuts, federal outlays grew from 18.5% of GNP in 1960 to over 22% in 1980. Federal grants to state and local government were 15.9% of federal domestic outlays in FY 1960 and in FY 1983 were 17.3%. Thus, GNP grew with real economic growth and inflation, the federal budget grew faster than GNP, and the grant share of the federal budget grew even faster. The result was that total grants jumped from $7 billion in FY 1960 to $91 billion in FY 1980.

However, there was a limit to the tolerance of the public and elected leadership to constantly increasing shares of GNP being funneled into federal coffers. This resulted in commitments from various leaders, such as President Carter, to freeze the percentage of GNP taken by the federal government. Even stronger commitments to reducing the rate of growth in federal domestic spending have been made by the present administration.

If there is an effective political constraint against increasing the percentage of the GNP that is taken by the federal budget, then there are some built-in pressures to reduce grant outlays. This is most easily understood by considering the federal budget as having four components: (1) interest on the debt, (2) Social Security, (3) defense

and related programs, and (4) federal domestic programs other than Social Security. Interest on the debt has been rising faster than GNP as debt increases and lower interest rate debt is replaced with debt on which current higher interest rates must be paid. Social Security outlays are rising faster than GNP and will continue to do so even with modifications to the system that have been discussed in the past several years, but not enacted. National defense is not likely to decline, and it appears that congress will yield in 1982 as it did in 1981, to pressures for increases in defense spending greater than GNP growth.

If the percentage of the GNP taken by the federal budget is to be fixed or decreasing, and if two components (Social Security and interest) are to be growing, and one component (defense) constant or growing, it follows that the remaining component must be shrinking as a percentage of GNP. This is a mathematical fact, true whether liberal Democrats, conservative Republicans, or middle-of-the-road leaders of either party hold the White House or Congress. Not surprisingly, the amounts available for grants are dropping in absolute terms and dropping quite rapidly in relation to GNP. The details are comprehensively reported in other sources.*

The political implications of reductions in real (inflation-adjusted) grant outlays are substantial. First, as grants become less important in overall state-local finance, state and local officials can and will argue logically that the federal government should be having less impact on day-to-day decisions in areas supported by grants. Second, the need to cut grant outlays felt by members of Congress and the administration has led to genuine concerns on how to minimize adverse impacts on state and local finances and on service recipients. This has made them receptive to arguments that decreasing red tape and increasing flexibility will make it possible for state and local officials to get more bang for each grant dollar. Third, because grant dollars create their own constituencies of specialists, federal and state/local employers, contractors, grantees, and service recipients, shrinking grant funds will also shrink the constituencies for narrow categorical grants. Fourth, because certain federal regulations cause state and local costs that the federal government must share (e.g., water pollution control regulations and wastewater treatment grants), declining federal funding may cause reconsideration of various mandates applied to state and local government.

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*For a review of the situatior from a state perspective, see National Conference of State Legislatures and National Governors' Association, THE PROPOSED FY 1983 FEDERAL BUDGET: IMPACT ON THE STATES (1982).

These factors are likely to improve the environment in which further improvements in grant consolidation and management are being considered.

SUMMARY: THE POLITICAL ENVIRONMENT FOR REFORM

The history of increasing federal intrusion into matters previously considered of state or local concern has many causes. Not the least of these has been postures of business and state and local leaders who, on the whole, have not only acquiesced in the trend but have often encouraged specific federal interventions.

While those concerned about federalism and the other issues faced by the Statehood Commission can find potential allies in single issue groups opposed to the power the federal courts are having in particular fields, these groups do not seem likely to view their problem in the context of larger intergovernmental relations views, nor is it clear that elected state and local officials would be willing to align with such groups.

However, there are some politically encouraging factors from the perspective of those interested in devolution of federal power. These include: (1) state and local officials who, on the whole, are less concerned with trying to increase grant programs and more concerned about abuse of federal power through regulatory preemption and grant regulations, (2) increasing public trust of state and local governments and decreasing trust of the federal government, (3) clearly demonstrable federal policy failures in major domestic programs, (4) budget pressures at the federal level which will tend to discourage expansion of federal roles through spending programs, and (5) widespread endorsement of devolution by major political figures including the president of the United States.

Some of these factors may persist for a decade or longer. Some may be quite transitory. For example, political leaders are normally not chosen solely for their views on federalism and intergovernmental relations. Political change based upon factors such as the state of the economy or success or failures in international relations could bring changes in the persons controlling leadership positions in the White House and Congress, which might bring quite different views on federalism issues.

CHAPTER SEVEN: PROPOSALS FOR MAJOR CHANGES IN THE FEDERAL SYSTEM

INTRODUCTION

There have been many proposals for modification of the relationships between the federal government and the states. Some of these are highly detailed, such as the notion that federal agencies should not require state officials to report statistics to them when the statistics are generated by other federal agencies. Some are quite simple, such as the concept that state legislatures should be able to veto congressional enactments. Some changes are basically just changes in attitudes and general approaches; some involve legislation at the national level; some would even require amendment of the Constitution of the United States.

For convenience in exposition, these changes have been divided into groups: (1) "major changes" such as those involving constitutional amendment or major shifts in the division of responsibilities among levels of government, which are covered in this chapter, and (2) "less major changes", which are covered in the next chapter. As a general rule, the major changes offer more substantial devolutions of federal power, but have more difficulties associated with obtaining enactment.

CONSTITUTIONAL CHANGES

The United States Constitution can be amended in two basic ways. Both involve ratification by the legislatures of three fourths of the states. In one case, however, the amendment is submitted to the legislatures by a two-thirds vote of both houses of Congress. This is the method that has been used for all amendments that have been made to date. The second method is a constitutional convention called by Congress after being petitioned by two thirds of the state legislatures. This method has never been used, although the two thirds mark was nearly reached for the 17th Amendment before Congress adopted it, and now has been nearly reached for an amendment requiring a balanced federal budget.

The major problem with the second method is that no one knows exactly what the rules would be. Questions include what the basis for voting in the convention would be (one vote per state, one vote per delegate), whether the subjects considered could be limited to those in the states' call for the convention, how much time is available for the states to issue a call and whether a call can be rescinded once a state acts. Furthermore, there is debate over whether these rules can be set

by an act of Congress or whether setting them itself requires a constitutional amendment.

In its preliminary report, the Statehood Commission concluded that the absence of an authoritative determination of rules retarded use of the second method of amendment to the detriment of the states. The Constitution gave state legislatures a role, along with the national legislature in proposing constitutional change, but this power has been muted by concerns over a "runaway" convention. The commission recommended that Alaska join with other states in having Congress call for a constitutional convention limited expressly to development of procedures for the second form of amendatory procedure. ACIR has recommended that Congress pass legislation setting the rules which has been pending for over a decade.*

Once rules were established, there remains the question of what constitutional amendments would work in restoring balance to the American federal system. One approach, suggested by Governor Babbitt, would follow somewhat the mechanism used in Germany where the states are represented in an upper house of the legislature with veto over legislation passed in the lower house. Babbitt's proposal would allow the legislatures of two-thirds of the states to nullify any act of Congress, except those dealing with defense, foreign affairs, or civil rights.

It is something of an irony of history that the decision for an amendment to have U.S. senators elected by the people, rather than the legislatures, eliminated the concept of the Senate as a body representing states, per se, thereby creating the need, as seen by some people, for a new way to maintain constitutional balance through an amendment allowing state legislatures to veto federal legislation. At the time, state legislative leaders were a major force in causing direct election of senators.

Another potential constitutional amendment would follow procedures now in effect in California and some other states governing the relationship between state and local governments. Cast as a constitutional amendment, it would prevent the U.S. Congress, the federal courts, or both, from imposing cost-increasing requirements on

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*See the discussion in ACIR, RESTORING CONFIDENCE, pp. 152-154.

state (or state and local) governments without appropriating funds to pay the added costs associated with complying with the requirement.*

If applied to the courts, such an amendment would have its primary effect in decisions that increase the costs of providing governmental services in the name of civil rights. Examples are the costs of school busing, educating the children of illegal aliens, and maintaining the standards in mental health and correctional institutions that the courts have said are necessary to comply with the Constitution.

As applied to Congress, such an amendment would have uncertain effects on conditions imposed in grant programs. It would be difficult to design an amendment to prevent such conditions from being imposed, so long as the amounts provided by the grant were sufficient to meet the costs imposed. Outside the grant area, the primary impact would be on attempted congressional regulation, such as the wages and hours controls rejected on other grounds by the Supreme Court and federal regulation of pollution control, which creates substantial state and local costs for wastewater treatment.

Other possibilities for constitutional amendment include:

(1) More clearly defining interstate commerce to limit federal control to goods and services crossing state lines,
(2) Expressly exempting state and local governmental functions from regulation by Congress, and
(3) Limiting the capacity of the federal government to raise revenues for purposes other than national defense, foreign policy, and Social Security.

SORTING OUT THE FEDERAL SYSTEM

Over the past several years, critics of the current federal system have been looking seriously at ways to "sort out" the federal system. Those involved have included the nation's governors and legislators, presidents Reagan and Carter, and members of Congress. The sorting out proposals generally involve only areas where there is actual or potential federal funding, as distinct from regulatory policy. However,

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*The "balanced budget amendment" has a section which states: "The Congress may not require that the States engage in additional activities without compensation equal to the additional costs."

in the many cases where federal regulation follows federal grant dollars, regulatory policies would also be affected by the sorting out proposals.

Sorting out advocates begin from the position that the federal system is now hopelessly muddled. Practically every domestic policy of consequence -- health, welfare, social services, transportation, water supply and wastewater treatment, law enforcement, fire protection, education, natural resources -- has major involvement by the federal government and by state and local governments. This is seen as causing overlapping, duplication, and frustration in administration, creating excessive federal controls and federal spending, reducing accountability of officials at all levels of government, increasing administrative costs, and causing a host of other evils.

The objective of sorting out is to get the federal government out of some of these activities, making them more clearly a state and local responsibility. There are varied approaches to providing resources to state and local government to handle the costs previously borne by the federal government. The proposals also differ in whether or not some additional responsibilities would be shifted to the federal government. The three basic approaches can be characterized as (1) federal withdrawal, (2) federal withdrawal with revenue turnbacks, and (3) swaps of functions.

FEDERAL WITHDRAWAL

The obvious way to take the federal government out of various activities is simply to turn back the clock to restore the situation before the federal government entered those areas. From a federal perspective, this has the advantage of allowing reductions in federal personnel and the federal budget. It has the potential disadvantage of loss of federal control along with termination of funding, but in some areas for some federal decision-makers this is a desirable result, not an undesirable one.

From a state/local perspective, federal withdrawal combines the program implications of ending federal control with the financial implications of loss of grant funding. Those financial implications differ depending upon one's perspective and upon how state and local government budgets adjust to the withdrawal.

In many cases, the state/local response to the withdrawal of funding for a grant program will be to discontinue the activity that was financed by the grant. This has generally been the case, for example, when state and local governments have experienced reductions in programs funded by the Comprehensive Employment and Training Act. In such cases,

the federal withdrawal has little or no financial impact on state and local government as the cuts flow through to the beneficiaries of the program and those who provided services on a contract basis. State and local employees who lose their jobs because federal funds are cut are, of course, affected but not necessarily their government's fiscal situation.

In other cases, however, the state and local governments will find it necessary or desirable to increase local funding to make up for at least a part of the reduction in federal funds. In these cases, the fiscal position of state and local government will be affected.

The amounts involved in federal grants are substantial, accounting for nearly a fourth of state and local spending in 1981. Federal grant outlays for Alaska in FY 1981 were over $1,100 for every person in the state, well above the national average of $412.*

Withdrawals of assistance currently being provided on the grounds of inappropriate federal involvement, as well as on the basis of federal budget savings, were discussed as early as the Kestnbaum Commission under President Eisenhower. The first major withdrawal, from the Law Enforcement Assistance Program, began in the Carter administration. In its first (FY 1982) budget the Reagan administration proposed wholesale withdrawals from some programs, along with consolidation into block grants and/or reduced funding for others. Some programs were eliminated by Congress on the president's recommendation and more were proposed for elimination in the FY 1983 budget. For example, all economic development programs of the Economic Development Administration, the Title V regional commissions, and the Appalachian Regional Commission were targeted for extinction.

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*National Governors' Association, "The Impact of the FY 1983 Federal Budget on the States: State-by-State Analysis" (February, 1982). This publication used the federal Office of Management and Budget definition of grants, which counts as grants certain shared revenues (e.g.,mineral leasing). This factor alone tends to cause assistance to Alaska to be higher than other states. Because of concerns over grant program recipients (e.g., persons on welfare and/or receiving treatment under Medicaid) and the fiscal posture of state and local governments, state and local officials have preferred turnbacks and/or swaps to simple federal withdrawal from programs.

The result was that federal outlays for grants dropped from $94.7 billion in FY 1981 to $91.2 billion in FY 1982. As this was written, Congress had not yet acted on the FY 1983 appropriations, but the budget resolution indicated that Congress was moving in the direction of further reductions, though perhaps not to the $81.4 billion in outlays for FY 1983 proposed by the president. Of course, with inflation affecting the costs of delivering service, actual increases in grants would be required for grants to maintain the purchasing power they had had in the past.

The concept of federal withdrawal as implemented by Congress in 1981 did involve some aspects of reduction in federal controls. Cuts in Medicaid and AFDC programs were accompanied by actions to reduce the many instances in which law, regulation, or both required states to spend more on these programs than state officials would have spent in the absence of federal cost-increasing requirements. The administrative provisions of the block grants were much simpler than the requirements of the narrow categorical programs they replaced.

Long-time observers of state-federal relations found 1981 an unusual year. Very few proposals were made for new grant programs. None were made by the administration although some thought was apparently given to a grant program for correctional institutions when this was proposed by a federal task force. State and local officials did not press for new programs and many acquiesced in the grant cuts being proposed, suggesting that the administration had picked its targets well and/or that many state and local officials concurred in the concept that grant cutting had become necessary.

The magnitude of the 1981 reductions, however, made it clear that another round of reductions was possible, and another, and yet another leading to a course of unplanned federal withdrawal. State and local officials feared this result. Administration officials recognized that as a result, another round of grant cutting might not be so easy to accomplish without a plan for where it would all end that would be acceptable to, or at least bearable by, state and local officials. The result was discussion of turnbacks and swap proposals.

TAX TURNBACKS

One concept for the reform of the federal system is for the federal government to relinquish funding and policy responsibilities to the states and local governments (as in sorting out) and to relinquish some federal revenue sources as well (rather than assuming new federal expenditures as would be the case with sorting out). The concept of revenue turnback has been considered from time to time for decades.

During the Eisenhower administration, considerable attention was given to identifying both expenditures and revenue sources that could be turned back. One of the more serious efforts involved a proposal that responsibility for vocational education and municipal waste treatment be turned back along with some revenues from the telephone excise tax. The proposals ultimately floundered over a problem of distribution among states, a topic that will seen to be relevant to the swap proposals discussed below. The patterns of federal aid distribution and of telephone tax revenues were quite different. Therefore, a turnback of nationally equal revenues and expenditures produced windfalls for some states and cutbacks for others. Because the cuts were unacceptable to officials of the states affected, the program was redesigned to include a grant component. With this redesign, the program had two major disadvantages: (1) the federal cost was substantially higher than continuing the status quo, and (2) the program did not achieve the objective of getting the federal government out of the business of providing grants in these areas.

The tax turnback approach was initially of strong interest to the Reagan administration. In his speech accepting the Republican nomination for president, Mr. Reagan stated: "Everthing that can be run more effectively by state and local governments we shall turn over to the state and local governments -- along with the funding sources to pay for it." In March 1981, the WASHINGTON POST reported that the president told a group of county officials:

> I have a dream of my own. I think block grants are only the intermediate steps. I dream of a day when the federal government can substitute for those, the turning back to local and state governments of the tax sources that we ourselves have preempted here at the federal level, so that you would have the resources.

There are four approaches to revenue turnbacks which involve quite different federal actions and potential state responses. They are:

1. federal withdrawal from certain tax bases,
2. a federal "pick up" tax,
3. return of revenue from a tax, and
4. a grant program from earmarked revenue.

Federal "preemption" of a particular tax, such as the personal income tax, may make it harder for states to tax the same source. In the federal withdrawal form of turnback, the federal government eliminates a tax, thereby making it easier to raise state taxes on the same source. However, federal withdrawal does not mandate state taxation, and federal

and state taxes on the same tax base can coexist indefinitely, as indicated by taxation of gasoline, cigarettes, and personal and corporate income.

The concept of a federal pick up tax is that the federal government levies a tax but allows a 100% credit for state tax payments against the federal tax liability. This induces all states to enact a tax up to the amount of the credit. States take this action because it does not change the liability of their taxpayers and provides the state with revenues it would otherwise not have. These arrangements are currently in effect for estate and unemployment compensation taxes.

While many states return revenues from particular taxes (such as shares of personal income taxes, auto registration fees, and gasoline taxes) to local government, the federal government does not now have such a program that returns tax revenues to the places where they were raised. A federal grant program from earmarked revenue, such as the highway trust fund, differs from returning revenues in that the allocation of expenditures is based upon measures of need for spending rather than on where the revenue was raised.

When the staff of the Reagan administration and ACIR began to look at specific ways to implement this turnback approach they discovered that there are few federal revenue sources that offer the potential for turnback. Individual and corporate income taxes are too important in terms of total federal revenues to be turned back. Social insurance revenues (e.g., Social Security) are already earmarked and airport and airway trust fund and highway trust fund monies are already returned as grants. Eliminating these taxes from the list of federal taxes leaves the sin taxes on alcohol and tobacco, what remains of the estate and gift taxes, the telephone excise, and the windfall profits tax. The windfall profits tax is not a suitable tax for turnback because it is temporary and revenues are concentrated in a few states. Receipts in FY 1980 from these taxes were alcohol, $5.6 billion, tobacco, $2.4 billion, estate and gift $6.4 billion, and telephone, $1.1 billion. The 1981 tax amendments will cause gradual reduction in estate tax revenues. Alcohol and tobacco tax revenues will not grow rapidly and may not grow it all, assuming no change in rates. Thus, these tax sources would not necessarily seem desirable from a state and local perspective as resources to finance growing expenditures in programs turned back by the federal government.

In 1982, Congress passed new tax legislation designed to reduce the deficit by increasing federal taxes. The tax increases included a doubling of federal cigarette taxes and an increase in the telephone excise. This development enhances the revenue raising capacity of these tax sources, but reduces the probability that federal officials will be

willing to abandon them to the states.

The idea of federal withdrawal from one or more of these tax bases was not, per se, particularly attractive to state and local officials because of the lack of growth of the base, the fact that state and local governments can already reach these tax bases, and recognition that the state and local officials would have to legislate state tax increases in order to capture any revenue to compensate for federal cutbacks. Pick up taxes or return of revenue from a tax would avoid legislatures having to adopt "new taxes", as the federal government would still be levying the tax.

The major problem with turning back revenues from a particular tax or group of taxes as compensation for termination of federal funding for a group of grants is that it is hard to match the revenue being turned back with the grants being lost. ACIR showed this problem in unpublished materials developed in 1981 which compared each state to the average of all states in revenues being obtained from turnbacks of various taxes and in expenditures from federal programs.

The contrasts in revenue raising capacity are particularly obvious for the taxes (sin taxes and estate and gift taxes) that looked the most promising for turnback. Utah, with its high proportion of persons who neither smoke nor drink, could raise only 53% of the national average revenue per capita from the sin taxes, by virtue of having less sin to tax. Nevada, which sells lots of alcohol and tobacco to visitors, would raise 2.5 times the national average from these taxes. Alaska would raise about 31% more per capita from the sin taxes. However, Alaska would do much worse with an estate tax turnback as Alaska, according to the ACIR figures, would only raise 36% of the national per capita average. While the Alaska numbers may change from the base year used by ACIR, the high numbers for Nevada and low ones for Utah are likely to be stable over time.

There is basically no relationship between the federal aid per capita in grant programs and the revenue per capita from potential turnbacks. Alaska, according to the ACIR figures, gets 260% more education aid per capita and 364% more transportation aid per capita than the average. Thus if the turnback revenues equaled the lost federal aid on a national basis, Alaska would lose substantially. A state like Connecticut with lower than average federal aid for education and transportation and higher than average yields from sin and estate taxes would be a gainer.

Like the Kestnbaum proposal described above, the turnback approach would produce politically unacceptable disparities among states through a pick up tax or return of revenue from a tax to the state where it was

raised. Thus, it was not an acceptable alternative to the Reagan administration.

The remaining alternative from the list of four turnback approaches presented above was to fund a grant program out of earmarked revenues. This was not attractive to the administration or other participants in turnback discussions. From an administration perspective it retained federal financing, which the administration was trying to reduce, and violated the principle of using trust funds only when true user charges were involved. Financing roads from gasoline taxes met this criterion, but financing education from alcohol taxes did not. From a state/local perspective it did not represent a real sorting out, and there was no guarantee that a switch in the source of financing would reduce the federal mandates associated with the programs involved.

Thus, the turnback proposals died in 1981 much as they had died in the 1950s in the Eisenhower administration. In their place emerged another set of proposals, built around the idea of swaps, as discussed in the next section.

PROPOSALS FOR SWAPPING FUNCTIONS

The concepts of federal withdrawal and turnbacks of functions and revenue sources involve a one way movement of federal activities to the states. However, much of the discussion of reforms in the federal system in the past several years have been concentrated on proposed two way shifts, with the federal government taking more responsibility for some activities and less for others. This approach has generally been more to the liking of state and local officials because the financial consequences are better than no federal assistance with withdrawal or chancy prospects of new revenues under turnback. In sorting out, the federal government could pick up some functions and, in the process, save state and local governments the money they now spend on them. These funds could be used to defray the costs associated with the ending of federal grants in other fields.

In November 1980, shortly after President Reagan was elected, the National Governors' Association and the National Conference of State Legislatures adopted a joint policy statement that called for, among other things, "sorting out roles and responsibilities among the three levels of government to recognize the primary federal policy and financial responsibility for national defense, income security, and a sound economy, and the primacy of state and local governments in such areas as education, law enforcement, and transportation."

After this general adoption of sorting out principles, staff members of various governors and legislators began to study specific sorting out proposals, as did the White House. For the state officials, the question of what functions the federal government might take was easily decided. The governors and legislators have consistently pressed for greater federal cost responsibility for welfare and Medicaid programs. During the Carter administration, this support took the form of support for welfare reform and health financing arrangements that offered considerable fiscal relief to states. The Reagan administration had little interest in these proposals, but was willing to consider proposals that would include relieving the federal government of some costs of major grant programs in return for more federal spending on welfare or Medicaid.

ADVANTAGES OF SORTING OUT: Sorting out offered many advantages from the perspective of those interested in it. First, responsibility for various activities would be clearly established. With such clear designation of responsibility would also come increased political accountability. Each level of government would be forced to deal with the consequences of its own actions, and the constant finger pointing and blame shifting that characterize the current intergovernmental

system would be lessened. This was attractive to state officials who had long felt they had responsibility inconsistent with authority in the state-administered programs of Medicaid and welfare and resented federal control in such fields as education. This was attractive to the Reagan administration because it, as a philosophical and budget matter, wanted to be out of detailed involvement in state and local affairs in as many programs as possible.

Second, many believed that with clear accountability would come increased program effectiveness. Program success or failure would depend on the developers and implementers, not on the complex mecnanisms of intergovernmental relations.

Third, program administration would be more effective and efficient. Unnecessary and duplicative administrative and overhead expenditures could be avoided. At a minimum, federal, state, and local staff now devoted almost entirely to the maintenance of the intergovernmental system could be eliminated or reassigned to more productive activities. State bureaucrats could devote their attention to program management rather than to grantsmanship and lobbying with federal agencies. The fragmentation of planning and data processing systems could be ended.

Fourth, within each level of government there would be opportunities for more flexible program design and operation. It is inherently easier to modify a system where one level of government controls all the parts than when responsibility is more widely dispersed. In the particular case of income security programs, federal assumption of funding and policy responsibilities could reduce some of the extreme disparities which exist in the definitions of eligibility for assistance and the amount of assistance that is provided.

Finally, officials at each level of government saw possibilities for financial gains. States had the potential to unload all or part of the Medicaid program, with its history of escalating costs. By clearly assigning such functions as education out of the federal domain, federal officials saw ways to avoid pressures for increased spending in functionally oriented grant programs.

DETAILED SWAP PROPOSALS: The president released his "New Federalism" proposals in January 1981 indicating that he would like them to go into effect with the beginning of FY 1984, October 1983. The major components of the proposal were a swap of functions and trust fund financing of some state costs for a limited period.

In the swap component the federal government would absorb the entire costs of the Medicaid program, which is now cost shared between

states (and local governments in some states) and the federal government. In return, the states would assume all costs of the federally funded, cost-shared AFDC program and of the Food Stamp program which is now 100% federally funded for benefits and 50% federally funded for administration. This swap was seen as a financial gain for states in terms of the dollars involved, depending upon assumptions made about future cost growth and the starting year used for analysis.

The turnback component would involve ending about 125 federal grant programs in 43 program areas with estimated FY 1984 federal spending of about $30 billion. A federalism trust fund of $28 billion would be established to finance continued state and local spending on the federal program activities that were being eliminated and to equalize gains and losses from the swap on a state-by-state basis. Beginning in FY 1988 the federal taxes used to finance the trust fund would begin to be reduced, so that states would assume full financial responsibility gradually, using state taxes to replace those repealed, increasing other state taxes, or cutting programs, as state officials might decide.

Certain key details were not specified by the administration, including the extent to which the benefit levels of Medicaid would be retained under federal administration and the requirements that might be imposed on the states to maintain benefits in AFDC and Food Stamps. The administration indicated a desire to enter into discussions with state and local officials over these and other features of the plan.

When the governors held their winter meeting in February 1982, the state response to the federalism proposals was a key issue. Administration officials were seeking the support of state and local officials for the New Federalism proposals. It was generally believed that without this support, the many groups interested in continuation of narrow federal categorical programs would easily kill the administration's initiative. The "federalism policy" adopted by the governors at this meeting is quoted in detail below as it is an excellent indicator of how the governors of both parties reacted to the proposal. The legislators did not have a meeting format as convenient as the mid-winter meeting of the governors, but individual legislators expressed comparable sentiments. The statement of the governors included the following:

> The time is at hand for national debate and action on the roles and responsibilities of federal, state and local government. The President, in his State of the Union message, set out a bold and specific proposal to realign the federal system to achieve more effective and accountable government at all levels.

> The Governors have, with an increasing sense of urgency, placed federalism reform at the top of their national agenda. We share the President's strong dedication to the concept of federalism. ..
>
> Our policy statements set forth many federalism principles and guidelines that are compatible with the President's proposals. We are in full accord with the President's proposal for a federal assumption of Medicaid. We also welcome his far reaching suggestion that a range of categorical programs be transferred to state responsibility....
>
> The President's federalism proposals contain some elements that are not consistent with existing policy positions of the National Governors' Association, such as assigning responsibilities for food stamps and AFDC to the states. The Governors also believe that support for state and local governments should not be cut in the 1983 budget to the extent that state governments are weakened and left without the capacity to meet the new service delivery requirements of the president's plan for 1984 and beyond.
>
> The Governors believe that these differences can either be reconciled by negotiation or temporarily set aside as we build a program based on existing areas of mutual agreement. The Governors believe that our areas of agreement with the President's proposal form the basis of a revolutionary restructuring of our federal system. ... The Governors stand ready to enter into immediate discussions with the administration concerning these areas of agreement and the subjects left open in our proposal. Our goal is to keep the federalism issue before the American people and to work with the President and the Congress at every opportunity to restore balance to our system of government.

The governors' statement went on to make a series of specific proposals including the federal takeover of Medicaid and the turnback of grant programs with an accompanying trust fund, but without turnback of AFDC or Food Stamps.

THE STATUS OF THE NEW FEDERALISM PROPOSAL: The New Federalism proposal was immediately characterized by some as an attempt by the president to divert attention from the serious economic problems then facing the country. However, the administration sought consultations

with state and local officials. These discussions were private, although news about them was released from time to time.

One change in the administration's posture related to the sources of financing for the proposed trust fund. The original proposal had contemplated that some of the funding would come from the windfall profits tax. This is a temporary tax designed to capture some of the difference betwen oil prices before decontrol and market prices. It was never seriously considered in the tax turnback proposals discussed above because of its temporary nature and because the benefits would be concentrated in only a few states. State officials did not want to see trust financing tied to a reveue source which, under current law, will soon cease to exist. The administration dropped its position that the trust fund financing had to come from earmarked taxes, such as the windfall profits tax.

State officials also argued that the Food Stamp program should remain a federal responsibility. Administration spokespersons indicated a willingness to consider this possibility. However, eliminating food stamps from the package would substantially reduce the amount of new financial responsibility being accepted by the states. In order to keep the swap relatively equal in financial terms, it became necessary to consider having the federal government take only a part of Medicaid costs. The negotiators discussed a somewhat different proposal for federal takeover of Medicaid, with the federal government taking only the Medicaid costs associated with typical private health insurance plans, including up to 100 days of hospital care. The states would be given considerable flexibility in deciding whether additional medical care would be provided to low income persons, to whom such care would be provided, and what types of care would be covered. The major impact of the proposal would be to leave the states with financial responsibility for "long term care", basically the significant costs incurred in some states of maintaining indigent and near indigent elderly persons in nursing homes.

In their meetings in the summer of 1982, both the governor and state legislators discussed the swap proposals at length. Both groups explored the many difficulties with the proposals, as discussed below. Some of the governors who had been most active in the negotiations indicated a desire to abandon discussions with the administration in favor of drafting a plan that would be presented directly to Congress. Neither the governors or legislators endorsed the plan that was then being supported by the administration.

Thus, as this is written, it is unknown whether or not the administration and large numbers of state and local officials can reach agreement on some sort of a plan. If they fail to do so, New Federalism

proposals have little chance of passage, although comparable results might be reached by different means as discussed below.

DIFFICULTIES IN NEW FEDERALISM PROPOSALS: From the perspective of the Statehood Commission, it is not necessary to examine minutely each variation of sorting out proposals. The details under discussion are likely to change almost weekly and the final plan may well not take shape until after the commission has made its report. However, an understanding of some of the obstacles to agreement between the administration and state and local officials is important. These obstacles are inherent in the basic concepts of sorting out and thus are independent of the individuals who happen at the moment to be in leadership positions in state governments, Congress, or the White House.

The difficulties with sorting out depend, of course, on what programs are involved. Assuming that the federal government acquired either of the major cost-shared income maintenance programs (AFDC or Medicaid), as often advocated by state officials, some difficult choices would have to be made at the federal level. These are essentially the same problems that were faced when the federal government assumed responsibility for the SSI program (Supplemental Security Income -- income maintenance payments for the aged, blind and disabled) in 1974. As is now the case with AFDC and Medicaid, eligibility for the program and payment levels differed sharply from state to state.

Federal takeover of SSI costs was urged as a step to shift financing burdens from fiscally pressed states to what was then perceived as a financially more comfortable federal government. In addition, the takeover, like welfare reform proposals, provided a national floor under eligibility criteria and benefit levels, resulting in more assistance to disabled individuals and the elderly poor in many states. There was no direct state quid pro quo for the takeover.

The federal government's cost to raise everyone's benefits to the level of the highest state was viewed as prohibitive. A benefit level was chosen that raised benefits for inhabitants of many states, but would have lowered them for inhabitants of other states. States were given the option of supplementing the federal payments, and many did so in order to avoid benefit cuts for their residents. However, later federal law "locked in" the states to their supplements which are currently about $2 billion per year.

Current AFDC benefits for a family of three with no other income range from under $100 in Mississippi to nearly $500 a month in Vermont. Adoption of nationally uniform benefits at the Vermont level would increase the federal costs of takeover by billions of dollars over and

above the costs of picking up what states currently spend on the program. The obvious alternative is to set some lower level of payments, thereby cutting benefits for some program participants and reducing the federal budget cost. This problem can be delayed, but not prevented, by phase-in provisions. The likely solution would be the one used for SSI -- a nationally uniform benefit involving major benefit increases for some beneficiaries and reductions for others. If the SSI precedent were followed, states would be allowed to supplement benefits. If states decided to do so, the net improvement in their financial situation from federal takeover of the AFDC program would be reduced because they would be continuing to support AFDC beneficiaries at the same time they would have taken on new financial responsibilities in other federal program areas under sorting out. Thus, federalization of welfare might well involve higher federal costs than the state costs being assumed by the federal government because of need for uniformity in benefits nationwide and the state fiscal relief might be less than envisioned because of supplementation of benefits in some states.

Much the same situation exists in the Medicaid program, where some states have opted to provide the minimum array of services only to persons actually receiving cash assistance. At the opposite extreme are states that provide the full array of benefits to persons who are medically needy, though not on cash assistance, in addition to benefits provided to recipients of cash assistance. The federal government could match existing services only by perpetuating state-by-state differences in a national system. It could protect all current recipients only at considerable cost. It could opt for lesser coverage, but in the process would still incur some added costs and would cause the benefits of some recipients to be reduced. In the case of benefit reductions, the possibility of state supplementation would presumably be left open.

Thus, from a federal perspective, nationalization of either program would likely bring a combination of higher costs to bring low states up to national minimum standards and outcries from those whose state standards had been above the new national minimum.

Federalization of Medicaid or AFDC also carries some problems of administrative control. Currently Food Stamps are administered by the states using 50% federal money for administration and 100% federal money for the stamps. The income tests used for the program are somewhat different than those used for AFDC. AFDC and Medicaid are administered by state and local officials with some federal supervision of administration. AFDC recipients are automatically eligible for Medicaid. If the federal government has Medicaid cost responsibilities, it will thus be subject to the cost responsibilites based upon eligibility determinations in AFDC which are controlled by states. One way around this problem would be to have the states, with their existing

decentralized offices, continue to administer the intake procedures forboth programs, but if this is done the sorting out of state and federal functions is less complete.

Another difficulty with sorting out is that the patterns of state expenditure on functions to be taken over by the federal government vary significantly from state-to-state as do the patterns of federal spending on programs that would be shifted to the states.* States such as New York spend much more per capita on Medicaid than, for example, do the Southern and Western states. However, most Southern and Western states get more per capita education assistance than states in the Northeast. Thus, a swap of Medicaid for education programs that involves equal national totals would not yield equal results state-by-state.

The Reagan administration proposal deals with this situation by the mechanism of a trust fund. The amount that each state would get under the trust fund would be the amount needed to replace the federal programs being lost minus the amount that the state gained from the swap proposal. This means that all states are "held harmless" in the base year for the swap. Difficulties arise, however, in any year after the base year. The first problem is that the trust fund replaces what would have been provided in the base year, not what would have been provided in the current year had the old federal programs continued. In cases of major shifts in population or the welfare of individuals, the trust fund allocation would grandfather old assistance patterns rather than meeting new assistance needs. This is not a major problem in the Reagan proposals, however, as the trust fund is intended only to be temporary.

However, if the trust fund is temporary, the states will, sooner or later, lose funding from it. When that happens the unequal aspects of the swap tend to dominate the equity of the results for individual states as those unequal aspects are no longer compensated for by the trust fund. Furthermore, state officials have to face the question of where to find the money to continue the programs previously financed out of the trust fund.

Another problem with the swap and sorting out proposals is the considerable likelihood that the level of government that is giving up a function will try to maintain some control of how that function is handled by the government that takes it over. For example, there is considerable discussion of minimum federal standards in the event that

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*The details are explored in considerable state-by-state quantitative depth in ACIR's staff working paper CHANGING THE FEDERAL AID SYSTEM: AN ANALYSIS OF ALTERNATIVE RESOURCE/RESPONSIBILITY TURNBACKS AND PROGRAM TRADE-OFFS (January, 1982).

programs such as AFDC or Food Stamps were turned over to the states. In the other direction, officials of states with generous Medicaid programs are desirous of a federal commitment not to reduce benefits in the event of a federal takeover. It is reasonable to anticipate that various groups would want guarantees of how states would spend money out of any new trust fund. Local government officials are, for example, looking for a mandatory "pass through" so that state officials would be required to pass along a specified amount of the state allocation to local governments in the same states. Groups interested in particular functional areas, such as elementary and secondary education, will undoubtedly seek to have strings attached to trust fund allocation to protect overall spending on the function in which they are interested.

These restrictions would, of course, somewhat defeat the philosophical objectives of sorting out -- making one, and only one, level of government responsible and accountable for individual functions rather than spreading accountabilty over several levels of government.

PROSPECTS FOR FUNCTIONAL REALIGNMENT

The proposals for ensuring functional realignment of state and federal governments without a constitutional amendment are all built on a political premise that it should be possible for state, local, and federal leaders to reach and have enacted some sort of agreement among themselves providing for sorting out of functions and financial responsibilities. There is certainly support in the examples of Canada, West Germany, and Australia that such actions can take place.

However, the American political system is much more fragmented than the political systems of those three nations. Those nations have strongly cohesive political parties which can provide one vehicle by which decisions are implemented. Furthermore, in their parliamentary system the head of the government is also head of the majority party in the legislative body. This means that, unless the government falls, the chief executive can normally deliver on commitments that require legislation for implementation. This is clearly not the case in the United States at either the state or federal level. Agreement by state leaders and the president does not necessarily result in state legislators considering themselves a party and certainly would be less than binding on Congress.

Furthermore, the United States has many more actors than the other countries. Not only do we have 50 states, many more than Canada, Australia, and West Germany, but our local governments have close financial and regulatory ties to the federal government to which state governments are not a party. Much of the federal assistance that would be given up in any swap or turnback proposal would be assistance such as

Community Development Block Grants, mass transit assistance, school aid programs, and wastewater treatment grants, that go directly to local governments without even passing through the states. Representatives of these local governments will not necessarily view an even swap at the state level to be even relative to them if they assume that the states will keep many of the benefits of swaps and turnbacks while letting the negative impacts of the cut-off of federal aid fall directly on local government.

Furthermore, the swap and sorting out proposals will substantially reduce the power of many actors in the current intergovernmental system, and cost some of them their jobs. This is most obvious in the case of executive branch officials who earn their living passing out federal dollars and writing regulations for programs that would be ended under the proposals. Also important are the specialized staffs in congressional committees and the interest groups that have built up over exercising some control over the amount and purposes of federal assistance in these programs.

These considerations and the substantive difficulties with the proposals as outlined above suggest that it will be difficult, if not impossible, to reform the federal system through one grand plan such as the president's proposals. However, even if reform cannot be accomplished in one major step such as a constitutional amendment or a major swap, there are many less major steps that can be taken. These are discussed in Chapter 9.

CHAPTER EIGHT: PROPOSALS FOR LESS MAJOR CHANGES IN THE FEDERAL SYSTEM

INTRODUCTION

The topic of shifting functions among governments, as discussed in the preceding section, has occupied considerable attention in 1981 and 1982 because of the major changes being made in federal taxing and spending patterns and an administration with strong views on returning power to state and local governments and the private sector. However, over the past decade, most attention was paid to reform proposals that did not involve shifting functions but rather took the existing funding patterns and functional interests of the federal programs as given. These reform proposals are discussed in this section in terms of four basic concepts affecting federal grant programs: (1) broadening the purposes of grants, (2) transferability, (3) joint funding, (4) consultative procedures, and (5) other reforms. In addition, the relationships of state and federal governments are potentially affected by regulatory reform, which is discussed at the end of the chapter.

BROADENING THE PURPOSE OF GRANTS

Many of the criticisms of the existing federal grant system can be reduced by the combination of a number of categorical programs into one new program encompassing the purposes of the prior programs. Such action provides more state and local flexibility, eliminates or reduces mandates to use particular providers or technologies, makes it possible for the priority setting system to more closely conform to local institutions, and can reduce reporting and administrative costs. Whether these results follow in all cases, of course, depends upon the controls, institutional requirements, etc. of the new program that is created.

The basic concept involved has been given a number of names. These include:

-- Grant Consolidation
-- Block Grants, and
-- Special Revenue Sharing.

In addition, proposals in particular functional area such as the Allied Services Proposal in social services, have elements of grant consolidation.

DEFINING BROAD-BASED GRANTS: There is inherently no single best way to define what is a "block" grant, or a broad-based grant. Some programs traditionally defined as broad-based block grants, such as the Law Enforcement Assistance Program, evolved various categorical aspects such as federal earmarking of funds for particular subfunctions within the

grant (e.g., corrections). Within each grant program, state and local flexibility varies from time to time by virtue of changes in both legislation and regulations.

The classification system that is most widely used is that of the Office of Management and Budget which defines three major categories of grants: (1) General Purpose Grants, (2) Broad-based Grants, and (3) Other Grants. Using these categories, OMB defines general revenue sharing and certain specialized revenue sharing programs, such as sharing of timber revenues with local governments, as general purpose grants. These grants normally have no restrictions on the purposes to which the grant funds may be put. OMB defines broad-based grants to include such programs as Community Development Block Grants, comprehensive health grants, certain titles of the Comprehensive Employment and Training Act (manpower training), the Social Services grants, law enforcement assistance, impact aid, and the local public works program. Under these definitions, the new block grants enacted in 1981 are broad-based grants.

STATUS OF BROAD-BASED GRANTS: In FY 1981, general purpose grants accounted for 7.2% of federal grant outlays and broad-based grants accounted for 10.6%, leaving over 80% of grant outlays in the category of "other". The adoption of some of the administration's FY 1981 block grants increased the broad-based grant percentage to 13.5% in FY 1982 and administration projections indicated that a level of 17.1% would be reached in FY 1983. Meanwhile, general purpose grant outlays would remain under 10% of a declining total grant allocation.*

While the administration has indicated a preference for block grants over narrow categorical programs, in many key areas it would rather take the federal government out of the function with turnbacks or swaps rather than support the function with any kind of grants.

DEVELOPING A BROAD-BASED GRANT: The development of a block grant involves a number of steps as outlined below:

(1) The programs to be consolidated must be defined, normally in terms of some organizing concept such as preventative health or social services;
(2) The basis for allocation must be established, typically on a formula basis;
(3) Transition provisions must be developed to deal with situations in which the new formula causes sharp changes in funding;

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*U.S. BUDGET, SPECIAL ANALYSIS H, p. 21.

(4) Earmarking, requirements for continued support of certain activities, etc. must be specified; and
(5) New administrative provisions, dealing with auditing, reporting, etc., must be specified.

Each of these steps can involve considerable controversy. As the debate over the block grant proposals showed in 1981, it is possible to combine some programs and to label the result as a block grant while retaining many of the features of categorical grants.

Because the categorical programs are themselves established by legislation, the normal mechanism for achieving block grants is through legislation that eliminates the categorical programs and establishes the new block grant. However, a somewhat different procedure is involved in the proposed Federal Assistance Improvement Act (S. 807). Title I of this legislation uses the legislative veto for dealing with grant consolidations, a procedure generally associated with the president's power to reorganize federal agencies subject to legislative veto. The basic mechanism involves a presidential decision to consolidate grants, notification of Congress, and automatic implementation of the decision unless vetoed by Congress. The legislation is designed to make it easier to consolidate grants as congressional inaction works on the side of change not on the side of the status quo and members of Congress may be able to avoid an actual vote on some consolidations.

The approach of allowing the president to consolidate grant programs, subject only to the possibility of legislative veto, has been advocated for some time by state and local elected officials. The logic is that enactment itself would encourage the president to propose consolidations and that groups interested in the survival of particular categorical grants would find it more difficult to engineer a resolution of disapproval in one or both houses of Congress than to block passage of new legislation, which is the ony way currently available to consolidate grants. This same logic, naturally, leads to opposition to the proposal by persons interested in preserving particular categorical grants.

The legislative veto aspect of the legislation also raises policy objections to it. From the perspective of some members of Congress, the legislative veto alters the legislative process by giving the president the power to write legislation and have it adopted by default. From an executive branch perspective, the legislative veto may increase presidential powers in some areas (e.g., reorganization and grant consolidation) but reduce them in other areas such as congressional review of proposed arms sales, administrative regulations, and sales from the national stockpile.

In addition, grant consolidation proposals often present tricky jurisdictional issues within Congress, as is the case when a program under the jurisdiction of one committee is to be consolidated with a program under the jurisdiction of another. The congressional committee system is not well adapted to dealing with such proposals.

Despite the obstacles, block grants are likely to continue to be favored by state and local officials and do offer a way to improve federalism without total federal withdrawal from fields where considerable assistance is now provided by the federal government.

TRANSFERABILITY

The fundamental concept of transferability is that the grant recipient, a state or local government, could transfer funds from one grant program to another. The individual proposals specify what programs can be affected, the maximum amount of possible transfer, which is usually stated as a relatively small percentage (e.g., 10-33 percent) of the program totals, and the administrative procedures for the transfer. The basic concept is to allow state and local officials to reflect unique local priorities and problems that could make the optimal local distribution of uses of federal funds different from the distribution called for by the national legislation establishing each program. Transferability is also reflected in S. 807 in that legislation's Title V which allows recipients to transfer up to 20% of funds from one program to another among programs covered by an integrated plan developed at the state or local level.

Although experiments with transferability have been suggested by a number of state and local officials, the United States has no experience with transferability of grant funding. However, certain implications of the concept are obvious. One of these is that the provision would provide a kind of grant popularity context that would be likely to affect future funding. Consistent transferring of funds out of certain programs would suggest that local decision makers accorded a lower priority to that program than past congressional fund allocations would indicate. To proponents of the activity involved, this would suggest the need to protect the program from transfers out of it. To federal budget-cutters, this would suggest the potential for reductions in the program.

JOINT FUNDING

Frequently, single projects or facilities at the state and local level are supported from more than one federal grant source. This raises the possibility of a different kind of grant consolidation. Instead of consolidating programs at the federal level, the existing programs could

be combined at the level of the regions, states, project or facility being supported by different federal sources. This offers the theoretical possibility of eliminating duplicating reports to various federal agencies and of tedious audits to make sure that each federal agency's funds were used only for exactly what that particular agency can support. The assumption is that monies are saved and more services can be delivered. Further the aggravations of people and problems "falling between" federal programs would be reduced.

The desire to exploit these possibilities received considerable attention in the 1970's. One result was the Joint Funding Simplification Act of 1974 which followed various administrative experiments with "integrated grant administration." The fundamental concept was that one set of reporting and auditing requirements and one application could serve the needs of many federal agencies that all support the same basic activity. Although much ink has been spilled in describing the promise of these actions and in writing regulations, they have had little impact on grant programs.* The fundamental problem has been that the relevant congressional committees and administering federal agencies have been reluctant to drop what they consider to be their minimum legal obligations on the control of spending as established by their authorizing legislation. The Joint Funding Simplification Act has now expired, but joint funding would be included as a title in the Federal Assistance Reform Act discussed earlier.

CHANGES IN FEDERAL CONSULTATIVE PROCEDURES

Over some 20 years, there have been constant attempts to try to improve the consultative arrangement between state and local governments and federal officials. However, it is hard to say that any systematic improvement has occurred. Basically, whether and how consultative arrangements work is still largely a function of the general attitudes of the particular federal officials involved toward consultation and the aggressiveness with which the particular state and local officials wishing to consult on a particular subject pursue their desires.

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*A comprehensive history of the various grant reforms of this type will be found in Chapter 5 of ACIR, IMPROVING FEDERAL GRANTS MANAGEMENT (1977). The General Accounting Office has issued a number of reports on the same subject. These are summarized in PERSPECTIVES ON INTERGOVERNMENTAL POLICY AND FISCAL RELATIONS (1979).

Obviously, from a state perspective, the ideal arrangement would be one that made it impossible for the federal officials to do anything but consult. Having an upper house of state representatives would clearly serve such a function as would a constitutional amendment that would give the legislatures of the states a chance to reject laws passed by Congress. However, these solutions are not likely to be available in the near term.

In consideration of shorter term needs, the issue is normally discussed in terms of consultations with the federal executive branch. Because the federal legislative process is inherently an open one with published bills, open hearings, open debates, etc., state officials and their organizations normally have little difficulty in keeping posted on what is going on and generally do not have difficulty in reaching, as distinct from persuading, their elected officials in Congress. Within the agencies, however, is another matter, particularly in such fields as the drafting of proposed regulations.

With some support from their reading of the Advisory Committee Act, federal officials tend to look upon state and local officials as just another interest group. They see relations with state officials as appropriately conducted in the same fashion as relations with industry groups. State officials receive notification of pending proposals through the Federal Register, just like others, and are consulted with in the same time frames and formats as representatives of particular industries.

State and local officials do not see themselves in the same role as industrial spokespersons protesting economic regulation and resent this federal approach to consultation. Instead, they see themselves, at a minimum, as the subordinate delivery staff in federal programs that are delivered through state and local government and would prefer to be considered as partners with the federal government in the delivery of services. In this capacity, they feel they have roles in the early stages of policy formulation on the grounds that they have unique information and perspectives which can be useful in improving the administration of federal programs. In regulatory programs, such as those involving wetlands, state officials see themselves as having concurrent jurisdiction with the federal government and desire to be consulted in that capacity. In programs, such as fish and wildlife, state officials see themselves as having primary jurisdiction and want the federal government to follow state rules and certainly to consult extensively before any failure to do so.

Over the years, it has been difficult to pin down exactly what changes in law and regulation would be appropriate to ensure the desired degree of consultation. While formal systems can be designed, for

example, to notify states of grant applications and awards, it is difficult to define exactly when in the process of evolving policy federal agencies should consult with state and local officials and equally hard to define just what officials should be consulted.

One organizational change made by the Carter administration was to require that each federal department have someone responsible for intergovernmental relations at the assistant secretary level with an intergovernmental relations staff. Such units are now common, but reviews of their effectiveness are mixed. In some cases, they seem to be an effective part of the agency's decision-making processes, but in other cases they operate more like messengers to and from state and local officials and officials of the agency's line bureaus.

Another, much older, organizational change was the federal regional councils. Federal regional offices were shifted to ensure that at least most agencies had common regional structures. The heads of the field offices in each region were established as a federal regional council with a head in each region appointed by the White House. These officials were to bring a more grass roots orientation to federal policy in each region. Furthermore, they were supposed to be able to handle situations in which the federal agencies might be taking inconsistent positions in dealing with state and local governments.

There has now been enough experience with the councils to suggest that they did not solve the problems they were designed to solve, and probably inherently could not do so. For regional organizations such as the councils to work there had to be enough power delegated to the regions so that staff of federal agencies at the regional level were making meaningful decisions. However, as a practical matter Congress was defining programs and criteria in considerable detail and each agency was adding to the detail, and decreasing local flexibility, with regulations and guidelines of its own. As a result, the councils could do little to adapt any federal programs to the needs of state and local government as seen by those near the scene. It became increasingly obvious that, at least in the U.S. federal government, field and regional offices were not likely to bring decisions closer to the people, as the mere establishment of these offices took no real power away from the Washington headquarters of the agencies.

Thus, one is left with what amounts to ad hoc consultative relationships between state governments and the federal government. The federal government may consult states in a fashion through a grant notification system, may be a "good neighbor" in the management of federal lands, may consult with Alaska fish and game authorities in a proposed treaty on caribou migration, and may establish bodies such as the Interior Department's Regional Coal Policy Team. Yet it is hard to

see structured ways to guarantee these relationships, which are ultimately based on the power of the parties. The president and/or Congress can order consultation, but cannot find a way to order that the consultations be meaningful or that federal officials listen to state and local officials.

How much federal officials listen is probably set by other factors. One of the most important of these is how much state and local officials seem likely to influence the outcome. When that power is perceived as high, because of White House ties or whatever, there is likely to be more consultation.*

OTHER REFORMS

There are a variety of other reform proposals which fall within the general rubric of improving grants administration without affecting the fundamental nature of the categorical programs. These include:

AUDIT REQUIREMENTS: State and local officials have pressed, with some success, for the substitution of state, local, and/or private audits for federal audits and for uniform approaches among federal agencies.

CERTIFICATIONS: Current federal grant programs dictate, sometimes inconsistently from program to program, state and local personnel procedures, data processing use, indirect cost reimbursements, purchasing procedures, etc. The fundamental position of state officials is that one uniform federal minimum standard should be set in general terms and that a single certification of a jurisdiction's procedures should satisfy the requirements of all federal programs. Failing this, state and local officials would at least like federal agencies to have uniform requirements.

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*A good example of this was found in interviews on the extent of federal consultation in treaties affecting fish and game matters. Apparently, a major shift occurred in the level of consultation some years ago after state officials persuaded Congress not to ratify a treaty negotiated by the State Department with little consultation with those officials.

CROSS-CUTTING REQUIREMENTS: There is clearly demonstrable inconsistency in the administration of cross-cutting requirements (e.g., affirmative action and historical preservation) from federal agency to federal agency and considerable state and local concern with the delays and paperwork associated with these requirements. These problems are addressed in the federal assistance reform legislation and are being continuously addressed administratively by OMB and the president's regulatory reform task force.

SIMPLIFIED PLANNING REQUIREMENTS: Typically, federal grant requirements involve comprehensive "plans" and have required detailed application documents that are resented as excess paperwork by state and local officials. Potential partial remedies include allowing the submission of a single plan to accommodate the requirements of several programs, reducing the frequency of plan submissions, and reducing the number of elements required to be included in such plans.

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS: During the years when federal grant programs expanded substantially in number and funding, state and local officials began to object that the system was becoming uncontrollable. Elected officials, such as city council members, mayors, state legislators, and governors claimed that they could not even find out what federal grants were coming into their areas, much less have their comments considered on proposed grants. These criticisms led to three changes in federal grant procedures. The first was to reduce the degree to which grants were given to non-governmental units, such as community action program agencies. The second was a procedure, established by OMB Circular A-95, that gave state and local governments the opportunity to comment on proposed federal grants affecting them. The third involved attempts to improve federal reporting of grants being made in particular areas. In addition to these federal actions, some states and local governments changed their own rules to strengthen review by elected officials of grant applications. State executive branch review was strengthened by establishing central clearance points for review and approval of grant applications by state agencies. Legislative review was strengthened in many states by requiring that federal funds be appropriated by state legislatures before they could be spent by state agencies.

On July 14, 1982 President Reagan issued an executive order designed to strengthen these procedures while reducing the paperwork that had been associated with Circular A-95, which the administration's press release indicated was costing $50 million a year. The new executive order is to be fully implemented by April 30, 1983. It is, of course, too early to know exactly how it will be implemented, but it does offer considerable promise for improved intergovernmental

relations.

The executive order requires federal agencies to "support state and local governments by discouraging the reauthorization or creation of any planning organization which is federally-funded, which has a federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, state and local elected officials." This section of the order should discourage federal mandates for the creation of bodies outside of normal state and local government administrative structures. A good example of the type of body that would be discouraged are local health planning bodies.

The order also eliminates the A-95 review and comment procedure and allows states to establish their own procedures for receiving notice of proposed federal actions such as grants and property acquisitions or improvements. The flexibility accorded to the states appears to be total, permitting everything from decisions not to review at all to use of very formal mechanisms such as review by a state legislature. Federal agencies are required to notify states of proposed actions and either accept the state comments or explain "in a timely manner" why they are not being accepted and acted upon.

The order also encourages federal officials to allow states to substitute state plans for federally mandated ones "where state planning and budgeting systems are sufficient and where permitted by law." This part of the order will have little immediate effect as much of the specialized state plan submissions are mandated by law.

OTHER INDIVIDUAL REFORMS: The listing above does not cover the many other subjects touched upon by grant reform proposals. Other aspects include federal aid information systems, changes in matching and maintenance of effort requirements, and administrative details such as property accountability. Each of these has various advantages and disadvantages and supporters and detractors.

ACIR RECOMMENDATIONS

The Advisory Commission on Intergovernmental Relations has made a number of different proposals for improvement of the federal system. Many of these have been covered above and in the preceding chapter, but all are collected in this section for an overview.

The capstone to ACIR's multi-year review of the federal role in the federal system was an agenda for American federalism published in mid-1981. This report contained a series of recommendations for "decongesting the federal grant system". ACIR (with a few dissenting

votes) reaffirmed its recommendation that AFDC and Medicaid become clear federal responsibilities and that employment security, housing assistance, and basic nutrition be added to the federal list. At the same time, the commission recommended that "the number of remaining federal assistance programs should be reduced very substantially through termination, phase-out, and consolidation." It provided criteria for selecting programs to be consolidated or terminated.

The commission also recommended a number of procedural steps to avoid unintended impacts of federal actions on state and local governments. One of these was that fiscal notes be prepared on pending legislation that would give members of Congress knowledge of the financial effects on these governments. This is now being implemented in Congress. ACIR's suggestion for regulatory impact analysis is now being implemented administratively and is included in recently passed regulatory reform legislation. ACIR also recommended that OMB be given the authority to temporarily suspend the impact of cross-cutting requirements in specific grant programs, a step that has not yet been taken but is favored by many state and local officials.

The commission also made recommendations for strengthening the political party system which are not discussed here as they are likely to be a bit afield from the Statehood Commission's mandate.

ACIR's recommendations for state action included various state-local matters, state participation with federal officials in determining how best to decongest the federal system, considering prior ty accorded by state and local officials to various federal grant programs, and "establishing jointly on a permanent basis a state-local legal defense organization, with adequate funding, professional staffing, and appropriate assistance from the states' attorneys general, to monitor and institute legal action opposing 'coercive' conditions attached to federal grants and 'intrusive' congressional exercise of the commerce power."* This recommendation has already been endorsed by the Statehood Commission in its preliminary report.

The commission also endorsed the concept of a convocation on federalism to raise public and decision-maker consciousness about federalism issues and action to end uncertainties in how the constitutional amendment process works, as discussed earlier in this report.

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*RESTORING CONFIDENCE, p. 145.

REGULATORY REFORM

One of the elements of the president's economic recovery package was regulatory reform, defined to apply to federal regulation of state and local government as well as federal regulation of private business. The president has issued guidelines to agencies on regulatory reform, strengthened the functions of OMB in this area, and through a task force headed by the vice president has pressed agencies to reduce the amount of their regulations and the burden of those regulations on state and local government and the public.

These efforts and the general environment of trying to make the federal government less oppressive have undoubtedly had some impacts on the extent to which state and local governments are regulated by federal officials. The limited paperwork and regulations associated with the new block grant programs are just one example.

SUMMARY OF LESS MAJOR CHANGES

The many proposals discussed in this chapter reflect an accumulation of over 20 years of experience of state, local, and some federal officials and a number of studies by ACIR and other groups. There is merit in many of the proposals, without doubt. However, all of them are, with the exception of deregulation, designed to make improvements within a system where the impact of improvements that can be made is inherently limited by the characteristics of the system itself.

However, in terms of major improvements to the system of federalism, the problem is not to make a system many find unworkable slightly less unworkable, but to find a system that will avoid the many problems associated with current federal-state relations. Thus, many of the proposals discussed in this chapter are "on the back burner" because of consideration of the New Federalism proposals discussed in Chapter 7. Obviously, if serious consideration is being given to eliminating hundreds of federal programs, it makes little sense to devote much time to questions such as reducing the paperwork associated with auditing and reporting in those programs. Thus, the federal assistance reform legislation is simply not a particularly high priority in the current session of Congress.

Chapter 9 explores whether there are changes, major or minor, in the federal system that might be consistent with the mission of the Statehood Commission, substantively useful in reforming the federal-state relationship, and potentially achievable through legislation and administrative actions.

CHAPTER NINE: CONCLUSIONS AND RECOMMENDATIONS

INTRODUCTION

As noted in the introduction to this report, the commission in its preliminary report concluded that reversion from statehood status was not in the best interests of the citizens of Alaska but that Alaska citizens would do well to make common cause with citizens of other states to promote reforms in the relationship of the federal government and the states. This report has reviewed the historical relationship of the federal and state government, explored some basic principles of federalism and their application in the United States and other countries, examined the current relationship of federal and state governments in the United States, and inventoried and assessed the many proposals for the reform of the American federal system.

The question remaining to be addressed is what significance all of this information has for Alaska. The purpose of this chapter is to relate all of the information in the preceding chapters to the specific question of what the Statehood Commission should recommend to the citizens of Alaska and their leaders on subjects related to the devolution of federal power.

DECONGESTION OF THE FEDERAL SYSTEM

The covering letter of the commission in transmitting its preliminary report noted that "Alaska can do little to make unilateral structural changes in its statehood status; but Alaska can and should make efforts to explore the full power of the states within our Union." The cover letter continues:

> We expect to reach conclusions on ways to improve our federal system for we do feel that the federal-state balance is seriously askew. States are losing their vital place in our system of government.

This report concludes that the belief that states are losing their place in our system of government is widespread and that a substantial number of politically significant actors are intent on doing something about it. However, the loss of state roles has its roots in strong economic and political forces, so the task will not be easy.

Much of what the citizens of Alaska can accomplish will depend upon a national political environment. Specifically, it will depend upon the extent to which Americans recognize the institutional inability of a national government to set and implement policies that deal with the day-to-day functioning of state and local government. Enough evidence is

in to conclude both that a policy of detailed federal intervention into matters formerly of state and local concern has high costs and massive unintended consequences and that the American public and political leadership are increasingly aware of this fact. The question is whether and how this awareness can be converted into specific actions that satisfy the widespread concerns of Alaskans.

In the Lower 48 states, much of the concern over federal-state relations has been focused upon federal grant programs. This emphasis contains hazards and opportunities for Alaska. The opportunity is that Alaska can, with 49 other states, reduce the intrusiveness of the federal government, refocus control of Alaskan activities in Alaska, and rid itself of red tape and administrative controls from Washington.

The hazard is that in the rush to decongest the federal system, leaders of the federal government and other states may overlook the unique situation of Alaska. Alaska receives more per capita in federal grant spending than any other state by a wide margin. There are some logical reasons for this, including the large land area of Alaska, the high proportion of native Americans, and expenditures associated with the large federal presence in Alaska through the military and public lands. It is very much in the interest of Alaska's citizens to make sure that federal "grant" spending associated with the commitments of the Statehood Act (e.g., mineral leasing payments) and with the federal presence in Alaska (e.g, impact aid) become disassociated from traditional federal grants that are under attack in budget battles in Washington and potential candidates for "swaps" of federal and state responsibility. Alaska's leaders will also want to be careful to ensure that any New Federalism proposals they support do not place larger future fiscal burdens on Alaska than on other states.

With these concerns out of the way, there is much to be said from an Alaskan perspective for support of the devolution of federal power as it is exercised through the federal grant system. In this effort, Alaskans will be making common cause with leaders of 50 states. However, it should be recognized that issues which are paramount to leaders of many states, such as shifting income maintenance responsibilties to the federal government, are not necessarily the most compelling concerns in Alaska and that Alaskans will want to use the concerns associated with the federal grant and regulatory presence as a climate in which to seek other improvements in Alaska's status.

PUBLIC LANDS

It is unrealistic to expect that the majority of Americans, indeed the majority of American political leaders, will ever fully understand the problems of states with large federal landholdings. For Americans

east of the Mississippi River the primary public lands problem is to get the federal government to acquire MORE lands to expand national parks and secure open space in those states. Problems of fish and game regulations, commercial access, and other public land issues simply are not key issues to the leaders of these states.

For the changes in public land management sought by Alaskan leaders to get a prominent place on the national agenda will require linking public land problems to problems that are relevant east of the Mississippi. There are basically two ways to accomplish this.

The first is simply regional politics and coalition building. The East has some major problems which are as regional as public lands are in the West. Investments in water supply, infrastructure and certain international trade concerns are examples. Differing regional concerns are not new in the United States. Our very Constitution came out of the "great compromise" among regions. However, compromises cannot result unless there are parties to sit at the table to negotiate them, which suggests the importance of the commission's recommendations regarding cooperation of Western states.

The second approach involves translating concerns over federal intrusion into specifics of interest to Alaskans. Public land issues that can be fit into this framework will be better handled from an Alaskan perspective than when public land issues are seen as arguments over giving away nationally owned resources.

OTHER ISSUES

As discussed in Chapter 6, there is a limited but tenuous relationship between desires to reduce federal control over state and local affairs and desires to reduce federal control over the lives of citizens and the activities of firms. Currently, the Reagan administration's deregulation efforts are treating both together. Two laws that are quite significant to Alaska citizens -- restrictions on Alaskan oil imports and a requirement that shipping within the United States occur on U.S.-owned ships -- can probably be best addressed in the general context of lifting the weight of unnecessary and cost-increasing regulation from the shoulders of U.S. citizens and businesses.

SPECIFIC DEVOLUTION PROPOSALS

In developing its final report, the commission will be considering a variety of specific proposals that it might support. This section provides a sort of "shopping list" of devolution proposals that might be recommended by the commission. The list covers the full range of

REGULATORY REFORM

#8 SUPPORT THE PRESIDENT'S REGULATORY REFORM EFFORTS: This administration has been strongly oriented toward regulatory reform, including reforms in regulation of state and local government as well as regulation of the private sector. In addition to broad support of these efforts, the state of Alaska could take specific actions to promote federal regulatory reform. One approach is to conduct a survey of all state, and possibly some local, agencies to determine those federal regulations that are viewed as most burdensome and least justified. Another approach is to commission a survey of several Alaskan communities on the same subject, but covering regulation of private as well as governmental conduct.

#9 SUPPORT REGULATORY REFORM LEGISLATION: Regulatory reform legislation is currently pending in Congress. Legislation of this type could be supported, particularly provisions that would permit congressional veto of regulations, exempt small business and small governments from certain regulatory burdens, and provide "sunset" (automatic expiration) for regulations.

DEFENSE AGAINST NEW FEDERAL INTRUSIONS

#10 CONTINUE OPPOSITION TO INTRUSIONS MOST ONEROUS TO ALASKA: The potential federal intrusion into state policy with the most economic significance for Alaska is proposed federal limitation on state severance taxes. The federal courts have refused to override states on this subject, so the arena has shifted to Congress. Other issues of interest include Outer Continental Shelf leasing, overrides of state and local securities and financial regulatory laws, override of hazardous waste controls, and power plant siting.

#11 ESTABLISH A DEFENSE FUND TO LOBBY AGAINST FURTHER FEDERAL INTRUSION: Chapter 6 reported on the factors that tend to cause further federal intrusions into state and local affairs and noted that state and local officials have often been advocates of intervention. This means that organizations of state and local officials are not consistent protectors against federal intrusion. Chapter 6 also pointed out that business interests frequently favor extension of federal power at the expense of state and local governments. There is no organization in Washington that consistently opposes extension of federal power into state and local affairs on principle. Alaska could lead in the establishment of such a group, either by trying to interest others or actually appropriating seed money for it. Such a group, working in the legislative process, could complement a legal defense fund (#2) working in the judicial process.

GENERAL ASSAULTS ON FEDERAL CAPACITY

The federalism debate can be viewed as a war between the states and the federal government. If one views the situation this way, one examines the enemy's assets and trys to minimize them. Fundamentally, the federal government has used two major assets to take over many responsibilities formerly exercised by state governments, local governments, or left to the people. These assets are money and reputation.

The lure of federal money accounts for many of the intrusions of the federal government into such areas as law enforcement, fire protection, libraries, and local schools. As discussed in Chapter 6, it is the lack of money which is stimulating much of the federal pullback from these areas. A strategy designed to encourage further federal pullouts (at the possible expense of state and local budgets, of course) would:

(1) Cut federal taxes as much as possible,

(2) Eliminate federal borrowing as a source of funds (e.g., balanced budget amendment) and/or create political pressures to reduce the federal deficit, and

(3) Ensure that available federal funds were used up by federal programs not intruding on state and local government such as national defense, foreign aid, space exploration, and Social Security.

The second federal asset is reputation -- the concept that federal action promises to have positive effects in curing national problems ranging from crime to poverty. One tactic in any battle against federal power is to destroy or minimize this reputation. The public opinion material cited in Chapter 6 suggests that much of this work has been done.

CONTRACTS FOR THE ADMINISTRATION OF FEDERAL PROGRAMS AND REGULATIONS

The preliminary report of the commission indicates some interest in the state making arrangements to administer federal programs on some sort of contract basis.

There are a few situations in which the federal government does contract with state and local government for the administration of a federal function. Examples are contracts with state universities for

research and contracts with state and local hospitals for the care of patients whose care is a federal responsibility (e.g., merchant seamen, military personnel, and certain veterans). The federal government also contracts with state agencies to make disability determinations under the Supplemental Security Income program.

More common than contracts are grant programs in which the federal government provides a grant to state government for the purpose of administering a national program. In some programs, such as Food Stamp administration, the federal government gives state officials essentially no discretion. In other cases, such as pollution control, the federal government sets minimum standards and gives state officials significant (but not enough) discretion in administration. This pattern of state regulation with federal standards and cost sharing is the mechanism used for many of the federal regulatory activities discussed in Chapter 4. Examples are occupational health and safety, water pollution control, and certain agricultural inspection programs.

Some idea of the difficulties for Alaskans in encouraging return of power to the states is indicated by the fact that, when offered power in such arrangements, some states do not accept the offer. For example, the meat and poultry inspection program allows states to administer the program or opt not to do so and have the federal government administer the program. Only 23 states, including Alaska, have chosen to administer both meat and poultry programs.

Thus, the issue is not normally a question of the federal government using a contract mechanism for the administration of federal programs, at least as terminology is used in Washington. Instead, potentials for state administration of federal standards and programs are subsumed under the general topic of grant reform, which is discussed below.

TURNBACK OF FEDERAL RESPONSIBILITIES WITHOUT FEDERAL FUNDING

There are some situations in which Alaskans may want to pursue a turnback of federal responsibilities without federal funding being involved. This is the case for wetlands usage and marine mammals, as discussed in Chapter 5. These are cases in whch no specific federal grant program is directly involved in the activity.

#12 ENCOURAGE FEDERAL AGENCIES AND THE CONGRESS TO MINIMIZE THE CONDITIONS STATES MUST MEET TO TAKE OVER FEDERAL ACTIVITIES: As Alaskans know from the discussion of the subsistence issue on the ballot, the ability of the state to carry out certain actions may be conditioned by compliance with federal requirements. This is a problem, for example, with marine mammals and wetlands management. The commission can

recommend the minimization of these barriers and could take, or encourage others to take, specific action to find and identify these barriers. One approach would be to survey state agencies for programs that they could take over but for barriers, and turn over the resulting list to the congressional delegation.

#13 CONSIDER WITHDRAWAL FROM SOME FEDERAL GRANT PROGRAMS: Because the most onerous of federal regulations are found in grant programs, one way out of the regulations is to get out of the grant programs. This was considered, for example, for vocational education in Alaska.

In the 1960s, many Southern states and school districts declined federal grants because they would not accept the civil rights requirements connected with them. Since then there have been few examples of state rejection of federal grants, excepting programs (e.g., meat and poultry inspection) where the federal government would provide the regulation if the state opted not to provide it. However, state rejection of federal grants in particular programs is always a possibility.

State rejection of federal funds from particular programs would have salutory effects on other states. A federal bureaucrat is particularly embarrassed whose profferred grants are rejected. Rejection would tend to encourage a federal review of the regulations and requirements which caused Alaska to reject a particular grant. Increasingly, federal funds are being concentrated in block grants and larger programs (e.g., Medicaid) that are too expensive to reject. However, there remain some smaller programs where rejecting federal funding is a possibility.

The state could use its budget process to identify programs for state government where federal assistance could be dropped. An individual city government could do the same thing in its budget process. Assuming that the process produced some grants that could be dropped, the state would appropriate funds to cover the loss of federal funds. The state funding would be somewhat less, say 10% to 20% less, than the lost federal funds to reflect economies associated with avoiding paperwork and federal regulations causing inefficient uses of funds.

Refusing federal grants is a difficult step to take because it does involve not taking some federal funds to which the state is entitled. A more attractive approach, from a state perspective, would be federal legislation that permitted transfers of funds among grant programs. With such legislation, Alaska would be free to drop federal funding in some areas without loss of federal funds.

TURNBACK OF FEDERAL RESPONSIBILITIES WITH FEDERAL FUNDS

#14 SUPPORT NEW FEDERALISM POLICIES THAT WOULD TURN BACK RESPONSIBILITIES FOR CURRENT FEDERAL PROGRAMS TO THE STATES: Chapter 7 discusses a variety of New Federalism proposals currently under discussion in the administration and Congress and by state leaders. These proposals have in common:

(1) Withdrawal of the federal government from a number of grant programs and the regulations that accompany them, and
(2) Providing the states with additional financial resources roughly equivalent to the loss of federal aid by:
   (a) A federally funded trust fund
   AND/OR
   (b) Federal assumption of programs currently partly funded by states.

It is not realistic to expect the Statehood Commission to pick and choose among the many alternatives now under consideration. As a practical matter, if New Federalism is to be enacted at all, the state's choice will be whether or not to support some sort of compromise proposal that has not yet been drafted. Thus, all the commission can be expected to do is indicate support of, or opposition to, the family of proposals described above. In the president's initial proposal Alaska would save $32 million from federal assumption of Medicaid, spend an additional $53 million to maintain public assistance benefits with no federal cost sharing, lose $165 million in federal assistance in programs that would be terminated, and get an allocation of $187 million from the proposed trust fund which, ignoring rounding errors, is a net gain/loss of zero.

The programs proposed by the administration for turnback to the states are listed below:

Program	Number of Separate Grants
Rehabilitation Services	5
Vocational and Adult Education	9
Elementary and Secondary Education Block Grant	28
Comprehensive Employment and Training	5
WIN (employment and training)	1

Low Income Energy Assistance Weatherization	1
Emergency Assistance (welfare)	1
Child Nutr. (School Lunch, etc.)	10
Child Welfare	2
Adoption Assistance	1
Foster Care	1
Runaway Youth	1
Child Abuse	1
Social Services Block Grant	3
Legal Services	1
Community Service Block Grant	1
Preventive Health Block Grant	8
Alcohol, Drug Abuse, and Mental Health Block Grant	5
Primary Care (Health) Block Grant	1
Maternal and Child Health Blk. Gr.	7
Primary Care Research	1
Black Lung Clinics	1
Migrant Health Clinics	1
Family Planning	1
Women, Infants, and Children Special Feeding (WIC)	2
Aid for Airports	2
Highway Programs	9
Transit Programs	4
Rural Water and Waste Disposal	1
Water and Sewer Loans	1
Community Facility Loans	1
Community Development Block Grant	2
Urban Development Action Grants	1
Waste Water Treatment Grants	1
Occupational Health and Safety	1
General Revenue Sharing	1

TOTALS	
Programs	45
Grants	122

SUPPORTING GRANT REFORM

#15 ENCOURAGE THE CONSOLIDATION OF NARROW CATEGORICAL GRANTS INTO BROADER BLOCK GRANTS: For the grant programs that are to be continued, the commission could endorse the concept of block grants. Congress enacted some significant block grants in 1981 at the request of the president. The president's current budget recommendations include several additional block grants.

The commission could also encourage passage of the Federal Assistance Reform Act, which contains a provision allowing the president to consolidate grants by executive order, subject to veto by Congress.

#16 ENCOURAGE OTHER GRANT REFORMS: There are a variety of other grant reforms which the commission could endorse. These are discussed in Chapter 8 and, in more detail, in many publications of the Advisory Committee on Intergovernmental Relations. The commission may wish to avoid details and simply endorse grant reforms, which have been proposed by ACIR and others, that would simplify grant administration, reduce paperwork, and increase the flexibility accorded to state and local officials.

In the context of discussions of grant reform, it will continue to be important to Alaska to preserve the important funding from federal programs that are associated with "the cost of doing business." These include shared revenues from mineral leasing, shared timber receipts, impact aid and other programs designed to compensate state and local government for the fact that the federal government does not pay state and local taxes. Besides having a different rationale from regular grant programs, these programs do not have extensive regulation or paperwork requirements.

REGIONAL ORGANIZATIONS

In some cases, it can be argued that the major reason for federal action is that individual states cannot be allowed to control situations which affect several states. In this situation, there is an alternative to federal action, which is action by the affected states acting together through a compact or other agreement.*

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*Persons wishing more detailed information on this subject should consult ACIR, Multistate Regionalism (second printing, 1978).

Interstate compacts have been used in a variety of ways to promote interstate cooperative efforts. Some of the major compacts include the Atlantic States Marine Fisheries Compact, the Great Lakes Basin Compact, several nuclear compacts, the New England Police Compact, the Western Compact for Higher Education, and a variety of mass transit and river basin compacts. The largest interstate compact agency is the New York Port Authority which owns many facilities including the World Trade Center.

The interstate compact would appear to have little appeal for Alaska, as a non-contiguous state. Alaska has a few subject matters of common interest with other states. Specialized higher education (the subject matter of the Western Compact for Higher Education) and fisheries are two examples. However, in other areas such as pollution control, mutual police assistance, river basin planning and the like, Canada, rather than other states, is the logical partner for Alaska and the logical vehicle for agreement is a treaty, which can only be entered into by the federal government, not individual states.

SPECIAL ARRANGEMENTS FOR ALASKA OR NON-CONTIGUOUS STATES

The commission's preliminary report indicated an interest in exploring the prospects of special treatment of non-contiguous states and possible agreements between Alaska and the federal government regarding devolution of powers. Such special treatment appears unlikely to develop.

The notion of "generality" of laws has a significant attraction in our culture. The concept is that laws should not be directed at individual situations, but directed at categories. The prohibition against bills of attainder in the U.S. Constitution is an example of an application of this concept to individuals.

There is no legal reason why Congress could not enact laws applicable only to Alaska, even given the "equal footing doctrine." States, with constitutions comparable to the federal one, often have laws that create classes where only one local government falls in the class. While the notion of passing "general" laws would not seem a bar to special treatment of Alaska, the concept has wide acceptance as a standard of legislative conduct. For example, provisions in grant law designed to limit the entitlements of New York City, New York State, and California are typically phrased generally (e.g., provided that no single recipient shall be awarded more than 10% of the funds appropriated pursuant to this act).

Singling out Alaska or a group of states could be done in this fashion. Another approach with the same result is to pass general

legislation giving states options of doing something under circumstances where Alaska would be the only state likely to exercise the option. An example might be a law giving any state the opportunity to buy all federal electric power facilities within its borders at an appraised fair market value.

Given that distinctions can be made among states, is the fact of non-contiguity a reasonable basis for distinction?

To answer this question on a public policy basis one needs to turn to some principles of federalism such as those described in Chapter 2. Of those, the one most likely to be applicable is the economist's concept of externalities. The concept is that federal action may be required if the benefits of action in one state are felt in another. For example, federal action will likely be appropriate when one state's pollution affects a downwind or downstream state.

Lack of externalities would argue for special provisions for non-contiguous states in some instances. It would argue that Alaska and Hawaii should have a much freer hand in air and water pollution decisions than West Virginia, though not necessarily less than those contiguous states that geographically cannot easily pollute their neighbors (e.g. Delaware and Florida).

However, the externalities argument involves dealing with questions of fact in each case. Highway safety provides an example. So long as Alaskan and Alabaman drivers driving in those states injure only their fellow residents, there is no externalities argument to justify federal highway safety laws. The extent to which federal intervention would be justified through externalities would be based on the factual question of how much each state's drivers exposed non-residents to risk, which depends both on how much they drive in other states and how much drivers of other states drive in their state.

As pointed out in Chapter 2, much federal intervention is based upon a "timely contribution" test. This test merely requires a finding that the federal action will be helpful for some reason. Using this test suggests no distinction for non-contiguous states. Teaching handicapped children, humane treatment of prisoners, avoiding impure meats, avoiding industrial accidents, having pure drinking water, etc. are all presumably good things. If the motivation for federal legislation is to make sure that all Americans have these and other good things, there is no logical basis for depriving certain Americans of these good things merely because they are separated from other Americans by Canada or the Pacific Ocean.

Attempts to secure special treatment for any particular state in federal regulatory programs, including those with a grant component, are thus unlikely to be successful. This conclusion is indicated by the scarcity of special treatments in the current patterns of federal regulation.

CONCLUSION

In its preliminary report, the commission commented: "We feel that now is the critical time to attempt redistribution of powers from the federal to the state level." All of the evidence in this report -- the attitudes of other state leaders, the Reagan administration's approach to federalism, and public opinion -- suggest that this is the case. Such redistribution would by no means solve all of the problems that led to the establishment of the commission by the citizens of Alaska, but could certainly eliminate many of the problems which Alaska citizens and leaders share with citizens of other states. However, the status quo is defended both by powerful interests and inertia, which means that change will not come without effort.

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Item 6

F I R S T E N R O L L E D C O P Y

Constitutional Convention
Committee Proposal/12/Enrolled
January 23, 1956

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 12

Introduced by Committee on Executive Branch

Article Containing General and Miscellaneous Provisions

RESOLVED, that the following be agreed upon as part of the Alaska State Constitution:

GENERAL AND MISCELLANEOUS PROVISIONS

Merit Principle

Section 1. The legislature shall provide for a system under which the employment of persons by the State shall be governed by the merit principle.

Employees Retirement

Section 2. Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired.

Disqualification for Disloyalty

Section 3. No person who advocates, or who aids or belongs to any party, organization or association which advocates the overthrow by force or violence of the government of this State or of the United States shall be qualified to hold any public office of trust or profit under this constitution.

Oath of Office

Section 4. All public officers, before entering upon the duties of their respective offices, shall take

Board shall have power, in accordance with law, to formulate policy, and to appoint the President of the University, who shall be its executive officer.

Rules of Interpretation

Section 7. Titles, subtitles and marginal titles are not to be used for purposes of interpreting this Constitution.

Section 8. In this Constitution the personal pronoun is to be interpreted to include persons of both sexes.

Section 9. The enumeration in this Constitution of specified powers is not to be interpreted as a limitation upon the powers of the state government.

Section 10. The provisions of this Constitution are to be interpreted as self-executing whenever possible.

Office of Profit

Section 11. Service in the armed forces of the United States or of the State is not an office or position of profit as the term is used in this Constitution.

Disclaimer Regarding Native Lands

Section 12. The state of Alaska and its people do agree that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of the Act of Admission of this state, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights) the right or title to which may be held by any Indians,

Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property, belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe and except when held by individual natives in fee without restrictions on alienation; and that no taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restriction on alienation.

Consent to Enabling Act

Section 13. All provisions of the Act admitting Alaska to the Union which reserves rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska, are consented to fully by the state of Alaska and its people.

Constitutional Convention
Committee Proposal/12
December 15, 1955

ALASKA CONSTITUTIONAL CONVENTION

Report of the Committee on Executive Branch

Honorable William A. Egan
President, Alaska Constitutional Convention

Dear Mr. President:

The Committee on the Executive Branch presents for consideration and adoption by the Convention the attached article entitled General and Miscellaneous Provisions; although these provisions are of particular interest to this committee, they were not included in the proposed Article on the Executive Branch because they have application also to the other branches of government.

A commentary is also attached which explains the purpose of each section.

Respectfully submitted,

Victor Rivers, Chairman

Frank Barr

John C. Boswell

Thomas C. Harris

Maynard D. Londborg

Katharin Nordale

H. R. VanderLeest

Constitutional Convention
Committee Proposal/12
December 16, 1955

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 12

Introduced by Committee on Executive Branch

Article Containing General and Miscellaneous Provisions

RESOLVED, that the following be agreed upon as part of the Alaska State Constitution:

Merit Principle

Section 1. The legislature shall provide for a system under which the employment of persons by the State shall be governed by the merit principle.

Employees Retirement

Section 2. Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired.

Disqualification for Disloyalty

Section 3. No person who advocates, or who aids or belongs to any party, organization or association which advocates, the overthrow by force or violence of the government of this State or of the United States shall be qualified to hold any public office or employment.

Oath of Office

Section 4. All public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as _____ _____ to the best of my ability". The legislature may prescribe further oaths or affirmations.

Inter-Governmental Relations

Section 5. The State and its political subdivisions may cooperate with the United States and its territories and with other states and their political subdivisions on matters of common interest and, to the extent consistent with the laws of the United States, with foreign nations. The respective legislative bodies may appropriate such sums as may be necessary for this purpose. In all intergovernmental relations involving the state, the Governor shall act as the agent of the state.

Constitutional Convention
Committee Proposal/12
December 16, 1955

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 12

Commentary on the Article on General and Miscellaneous Provisions

Section 1. Merit Principle: Only employment in certain Federally aided programs of the Territory is now governed by the merit principle. This section would call upon the legislature to establish a system under which employment generally by the state would be governed by the merit principle. A system governed by the merit principle would be one, for example, which comprehended professional, technical, clerical, and administrative positions of the state government. The positions comprehended within the system would be classified according to duties and responsibilities. Salary ranges would be established for the various classes of positions. Appointments would be made according to merit and fitness which would be ascertained, so far as practicable, by competitive examinations.

Section 2. Employee's Retirement. This will assure state and municipal employees who are now tied into various retirement plans that their benefits under these plans will not be diminished or impaired when the Territory becomes a state.

Section 3. Disqualification for Disloyalty. This conforms with the language of the Congressional enabling bills.

Section 4. Oath of Office. The oath is self-explanatory.

Section 5. Intergovernmental Relations. This provision is recommended mainly in order to make it clear that the state can participate in cooperative programs such as the Western Interstate Compact on Higher Education even though such programs may involve the expenditure of public funds outside the state. Some states have had to amend their constitutions in order to participate in such programs.

This provision would also authorize local government units in Alaska to cooperate with Federal agencies on grant-in-aid programs such as housing and airport construction. Local government units could maintain direct relations with Federal agencies, but the Governor would serve as agent for the state in developing the intergovernmental relations of state agencies.

In view of the close relationships which Alaska will have with the neighboring Canadian provinces, explicit authority is granted to the state to cooperate with foreign nations to the extent consistent with the laws of the United States.

Constitutional Convention
Committee Proposals/12/15 & 16
Style and Drafting/Article XII
January 30, 1956

ALASKA CONSTITUTIONAL CONVENTION

REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Hon. William A. Egan, President
Alaska Constitutional Convention

Dear President Egan:

Your Committee on Style and Drafting herewith presents its redraft of the Article on General and Miscellaneous for consideration by the Convention.

Respectfully submitted,

George Sundborg, Chairman
R. Rolland Armstrong
Edward V. Davis
Victor Fischer
Mildred R. Hermann
James J. Hurley
Maurice T. Johnson
George M. McLaughlin
Katherine D. Nordale

REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Constitutional Convention
Committee Proposal/12
Style and Drafting/Article XII
January 30, 1956

ALASKA CONSTITUTIONAL CONVENTION

RESOLVED; that the following be agreed upon as part of the Alaska State Constitution:

ARTICLE XII

GENERAL AND MISCELLANEOUS

Civil Service

Section 1. The legislature shall establish a system under which the merit principle will govern the employment of persons by the State.

Retirement Systems

Section 2. Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

Disqualification for Disloyalty

Section 3. No person who advocates, or who aids or belongs to any party or organization or association which advocates, the overthrow by force or violence of the government of the United States or of the State shall be qualified to hold any public office of trust or profit under this constitution.

Oath of Office

Section 4. All public officers, before entering upon the duties of their offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear, or affirm, that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully dischage my duties as _____ to the best of my ability". The legislature may prescribe further oaths or affirmations.

Inter-governmental Relations

Section 5. The State and its political subdivisions may cooperate with the United States and its territories and with other states and their political subdivisions on matters of common interest. The respective legislative bodies may make appropriations for this purpose. The governor shall act as the agent of the State in all intergovernmental relations involving the State.

Interpretation

Section 6. Titles and subtitles shall not be used in construing this constitution. Personal pronouns used in this constitution shall be construed as including persons of both sexes.

General Power

Section 7. The enumeration of specified powers in this constitution shall not be construed as limiting the powers of the State.

Provisions

Section 8. The provisions of this constitution

Self-executing

shall be construed to be self-executing whenever possible.

Law-Making Powers

Section 9. As used in this constitution, the terms "by law" and "by the legislature", or variations of these terms, are used interchangeably when related to law-making powers. Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI.

Office of Profit

Section 10. Service in the armed forces of the United States or of the State is not an office or position of profit as the term is used in this constitution.

Consent to Enabling Act

Section 11. All provisions of the act admitting Alaska to the Union which reserve rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property, are consented to fully by the State and its people.

State University

Section 12. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be

administered and disposed of according to law.

Board of Regents

Section 13. The University of Alaska shall be governed by a board of regents. The regents shall be nominated and appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

b. Example / Checklist Contact Sheet

LEGISLATIVE SPONSOR: House State Affairs

Pub. Hear Work Ses. Inv. Hear

LEGISLATIVE REFERENCE: HJP34/HJP35

SUBJECT: Const Amend: State Sovereignty/ Coop. Foreign Nations

CONTACT: Ann PH: 4931

TC DATE/DAY: Mon. Tues, Mar 29

TIME: 8:30 - 10:00 AM

JUNEAU ROOM: C-102

BRIDGE:

OF PORTS:

DATE TAKEN/BY: 3/24/89 Glenn

****

TELECONFERENCE SITES:

LIO'S	LTC'S	VTS'S
Anchorage – Miles Dale 337-7910	Homer	See List on Reverse Side
Barrow *	Wrangell	
Bethel		
Delta Junction *		
Dillingham *		
Fairbanks		
Glennallen *	ALL LIO'S	
Juneau		
Ketchikan	OTHER SITES WELCOME WITH PRIOR NOTIFICATION	
Kodiak		
Kotzebue		
Mat-Su		
Nome		
Petersburg *		
Sitka – John Dapcevich 747-8383 747-3663		
Soldotna		
Valdez *		

OFFNETS: FbKS 907 474-7448
Brian Rodgers
210 Yukon Dr.
Suite 207D
Butrovich Bldg.
FbKS, 99775
5260

CHAIRING SITE: Juneau

CHAIRPERSON: Rep. Bunch

[ ] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

SIGNATURE OF SPONSOR/CONTACT PERSON DATE

****

LIO will call the offnet. per Quinn 3/28 9:30 AM

SPECIAL INSTRUCTIONS

* SESSION ONLY

LIO Miles DAVIS - Anchorage
337-7910

OFFICE
— Brian Rodgers (474-7448)
Fairbanks

LIO Sitka
— John Dapcevich 747-8383

Tuesday, March 29th
8:30

HCR 34&35

THE FOLLOWING DOCUMENT HAS NOT BEEN FILMED BUT IS AVAILABLE IN THE ORIGINAL FILE

file w/ my bill on Constitution

Intergovernmental PERSPECTIVE

Summer 1989, Vol. 15, No. 3

Judicial Federalism

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

HJR

35

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907·465·3800

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HJR 35

House State Affairs 3/29/89

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HJR 35

Cooperation with Foreign Nations

Received March 10, 1989
by Rep. Boucher

Heard March 29, 1989
Heard April 6, 1989

Passed Out of Committee April 6, 1989
5 Do Pass

TABLE OF CONTENTS

HJR 35: Cooperation with Foreign Nations

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 10, 1989 FURTHER REFERRALS: JUDICIARY

Date of Committee Action: ____________

The ___STATE AFFAIRS___ Committee considered: HJR 35

HOUSE JOINT RESOLUTION NO. 35

[COOPERATION WITH FOREIGN NATIONS]

Proposing an amendment to the Constitution of the State of Alaska relating to right of the state to cooperate with foreign nations.

RECOMMENDATIONS:

[ ] be replaced with ____________________ [ ] the same title [ ] a new title

[ ] have attached amendment(s)

[X] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] additional referral to the ____________ Committee

ADOPTS: ____________ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

[X] fiscal impact Div of Elections

[ ] zero fiscal note ________

[ ] zero with analysis ________

APPROVES PREVIOUS: (Date/Dept)

[ ] fiscal note(s) ____________

[ ] zero fiscal note(s) ____________

[ ] zero fn/analysis ____________

SIGNING DO PASS:

[signature]
[signature]
[signature]
[signature]
[signature]

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend

[signature]
Chairman's signature

Item 2

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HJR 35
PUBLISH DATE: 3-10-89

FISCAL NOTE

REQUEST:

Revision Date: 3-17-89
Title: Right of the State to cooperate with foreign nations.
Sponsor: Boucher
Requestor: Boucher

Agency Affected: Office of the Governor
BRU: Division of Elections

Components: II-Elections Primary & General Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	2.2*	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	2.2*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	2.2*	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

* Costs included cover 2 to 3 pages in each Official Election Pamphlet for printing and typesetting, and costs estimated to cover computer programing requirements for vote (Continued)

Prepared by: Linda Edgeworth
Phone: 465-4611
Division: Elections
Date:

Approved by Commissioner: Sandra Stewart
Date: 3/17/89
Agency: Division of Elections

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 35

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be $51.2.

Under these circumstances the fiscal note would be:

53.4

3,
Item 4 & 5 in
HTR34 file

Iterm6

F I R S T E N R O L L E D C O P Y

Constitutional Convention
Committee Proposal/12/Enrolled
January 23, 1956

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 12

Introduced by Committee on Executive Branch

Article Containing General and Miscellaneous Provisions

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Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property, belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe and except when held by individual natives in fee without restrictions on alienation; and that no taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restriction on alienation.

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Constitutional Convention
Committee Proposal/12
December 15, 1955

ALASKA CONSTITUTIONAL CONVENTION

Report of the Committee on Executive Branch

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Dear Mr. President:

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Respectfully submitted,

Victor Rivers, Chairman

Frank Barr

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Constitutional Convention
Committee Proposal/12
December 16, 1955

ALASKA CONSTITUTIONAL CONVENTION

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Inter-Governmental Relations

Section 5. The State and its political subdivisions may cooperate with the United States and its territories and with other states and their political subdivisions on matters of common interest and, to the extent consistent with the laws of the United States, with foreign nations. The respective legislative bodies may appropriate such sums as may be necessary for this purpose. In all intergovernmental relations involving the state, the Governor shall act as the agent of the state.

Constitutional Convention
Committee Proposal/12
December 16, 1955

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 12

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Section 3. Disqualification for Disloyalty. T' conforms with the language of the Congressional enabling bill

Section 4. Oath of Office. The oath is self-explanatory.

Section 5. Intergovernmental Relations. This provision is recommended mainly in order to make it clear that the state can participate in cooperative programs such as the Western Interstate Compact on Higher Education even though such programs may involve the expenditure of public funds outside the state. Some states have had to amend their constitutions in order to participate in such programs.

This provision would also authorize local government units in Alaska to cooperate with Federal agencies on grant-in-aid programs such as housing and airport construction. Local government units could maintain direct relations with Federal agencies, but the Governor would serve as agent for the state in developing the intergovernmental relations of state agencies.

In view of the close relationships which Alaska will have with the neighboring Canadian provinces, explicit authority is granted to the state to cooperate with foreign nations to the extent consistent with the laws of the United States.

Constitutional Convention
Committee Proposals/12/15 & 16
Style and Drafting/Article XII
January 30, 1956

ALASKA CONSTITUTIONAL CONVENTION

REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Hon. William A. Egan, President
Alaska Constitutional Convention

Dear President Egan:

Your Committee on Style and Drafting herewith presents its redraft of the Article on General and Miscellaneous for consideration by the Convention.

Respectfully submitted,

George Sundborg, Chairman
R. Rolland Armstrong
Edward V. Davis
Victor Fischer
Mildred R. Hermann
James J. Hurley
Maurice T. Johnson
George M. McLaughlin
Katherine D. Nordale

REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Constitutional Convention
Committee Proposal/12
Style and Drafting/Article XII
January 30, 1956

ALASKA CONSTITUTIONAL CONVENTION

RESOLVED; that the following be agreed upon as part of the Alaska State Constitution:

ARTICLE XII

GENERAL AND MISCELLANEOUS

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