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REVENUE SHARING: A GUIDE TO THE STATE AND LOCAL FISCAL ASSISTANCE
ACT OF 1976

(The following information from the National League of Cities is provided by MTAS as a service to Tennessee cities.)

In the closing hours of the session, the 94th Congress reenacted the revenue sharing program for an additional 3 3/4 years. While the basic structure of the program remains the same, there are some significant changes, especially in the areas of citizen participation, auditing, and civil rights requirements.

EFFECTIVE DATE

The new act takes effect January 1, 1977. According to the Office of Revenue Sharing (ORS) the transition from the old to the new program may cause some difficulties, especially for those governments that begin their fiscal years on January 1. These governments should pay close attention to all materials mailed by ORS between now and the first of the year.

REGULATIONS

ORS will issue regulations in November or early December and will mail them to every recipient government. There is a possibility that ORS will issue preliminary citizen participation regulations in the very near future as well. These regulations will be extremely important for those governments which budget on a January 1 fiscal year. Although the conference report does not specify this, we anticipate that all revenue sharing funds on hand as of January 1, 1977, will be subject to the new act and regulations.

EXISTING ACT

The reenactment bill is an amendment to the existing law. Therefore, all provisions in the existing act which are not specifically deleted or amended remain in effect. These provisions include: (1) formula allocations, (2) optional state formula, (3) governmental definitions (4) formula data definitions, and (5) submission of assurances to the secretary.

CITIZEN REMEDIES

It is important to note that upon exhaustion of administrative remedies (defined as the end of a 60-day period which begins upon the filing of a complaint with ORS) an aggrieved person may institute a civil action in a federal or state court. This civil action can be based upon an alleged violation of any provision of the act.
## Changes in the Act

<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Length of Program</strong></td>
<td>5 years</td>
<td>3 3/4 years</td>
</tr>
<tr>
<td><strong>Funding Level</strong></td>
<td>$30.2 billion to be distributed Jan. 1,'72, to Dec. 31,'76</td>
<td>$24.5 billion to be distributed Jan. 1,'77, to Sept. 30,'80</td>
</tr>
<tr>
<td><strong>Annual Growth Rate</strong></td>
<td>$150 million added each year, FY 76 total--$6.325 billion</td>
<td>FY 77 (Oct. 1'76 - Sept. 30,'77) $6.65b*</td>
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<td>FY 78 (Oct. 1'77 - Sept. 30,'78) $6.85b</td>
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<td>FY 79 (Oct. 1'78 - Sept. 30,'79) $6.85b</td>
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<tr>
<td></td>
<td></td>
<td>FY 80 (Oct. 1'79 - Sept. 30,'80) $6.85b</td>
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<tr>
<td></td>
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<td>*NOTE: $1.66 billion funded under existing act</td>
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<tr>
<td><strong>Funding Mechanism</strong></td>
<td>Trust fund</td>
<td>Guaranteed entitlement financing</td>
</tr>
<tr>
<td><strong>Payments</strong></td>
<td>Checks mailed on a quarterly basis, within five days after close of each quarter</td>
<td>No change</td>
</tr>
<tr>
<td><strong>Formula</strong></td>
<td>Money allocated by formula, based on population, inverse per capita income, and tax effort. No local recipient may receive more than 145% or less than 20% of the average statewide per capita payment.</td>
<td>No change</td>
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<tr>
<td>Eligibility</td>
<td>All units of general-purpose local govt. (states, counties, cities, towns, townships, Indian tribes, and Alaskan native villages)</td>
<td>No change except that Louisiana sheriffs are now eligible for direct funding</td>
</tr>
<tr>
<td>Expenditure Categories</td>
<td>Local governments may use funds for any capital projects but only for operating and maintenance expenses of programs in 8 priority expenditure categories (public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor or aged, and financial administration)</td>
<td>Priority categories eliminated</td>
</tr>
<tr>
<td>Matching Prohibition</td>
<td>Revenue sharing funds may not be used to meet the matching requirements in other federal programs</td>
<td>Matching prohibition eliminated</td>
</tr>
<tr>
<td>Davis-Bacon</td>
<td>Davis-Bacon wage standards apply to construction projects using 25% or more revenue sharing funds</td>
<td>No change</td>
</tr>
<tr>
<td>Citizen Participation</td>
<td>Each recipient required to follow its normal hearing procedures</td>
<td>Two public hearings required: (1) public hearings on planned-use report at least 7 days before the presentation of the budget to council, and</td>
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<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Citizen Participation (cont'd)</td>
<td>One planned- and one actual-use report must be published and filed with the secretary of treasury each year</td>
<td>(2) public hearing on revenue sharing expenditures at least 7 days prior to adoption of the budget. Waiver or modification of hearing requirements may be made where state and local laws conflict and adequate citizen participation is assured.</td>
</tr>
<tr>
<td>Reports and Publications</td>
<td>Three reports are required: (1) planned-use report, including a summary of proposed budget, (2) narrative summary of the adopted budget, and (3) actual use report. Only the actual-use report must be sent to Washington, and only the planned-use report must be published. NOTE: All publication requirements may be waived if cost is disproportionately large in relation to revenue sharing payment.</td>
<td></td>
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<tr>
<td>Civil Rights</td>
<td>Discrimination prohibited on basis of race, color, national origin, or sex. Secretary's enforcement powers are stated in general terms.</td>
<td>Discrimination prohibited on basis of race, color, religion, sex, age, national origin, or handicapped status under any state or local program except where recipient can prove with clear and convincing evidence that revenue sharing funds were not directly involved. Extensive hearing and compliance procedures are spelled out requiring time limits for investigations, compliance, administrative procedures, or court actions. Private civil suits are permitted, after exhaustion of administrative remedies. Attorney's fees may be awarded to the prevailing party.</td>
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<td>-----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Anti-lobbying</td>
<td>No provision</td>
<td>No recipient may use funds for the purpose of influencing legislation relating to provisions of the act. Dues paid to national or state associations are exempted.</td>
</tr>
<tr>
<td>Auditing and Accounting</td>
<td>Recipient governments must use fiscal accounting and auditing procedures that permit the federal government to audit.</td>
<td>Where state or local law requires an independent audit, the same applies to revenue sharing. Where no audit is required, an independent audit required every three years. (A series of audits is acceptable.) No audit required for recipient receiving less than $25,000 annually. Coordination of federal audits is mandated.</td>
</tr>
<tr>
<td>State Maintenance of Effort</td>
<td>States are prohibited from reducing payments to local governments. FY 72 used as base period.</td>
<td>States must maintain transfer to local governments based upon a sliding 2 year average, which is measured against the transfers from the immediately preceding 2 years.</td>
</tr>
<tr>
<td>Currency of Data</td>
<td>The act provides for data adjustments during an entitlement period if better data becomes available.</td>
<td>Tax data which relates to the fiscal year ending before the start of the next entitlement period must be used. New data cannot be introduced during an entitlement period. This should greatly reduce under- or over-payment of funds, which now requires subsequent adjustments.</td>
</tr>
<tr>
<td>Study</td>
<td>No provision</td>
<td>ACIR shall conduct a 3-year study of the American federal fiscal system.</td>
</tr>
</tbody>
</table>
Payments

TIMING OF PAYMENTS

Payments will continue to be made on a quarterly basis with checks being issued five days after the close of each quarter—the first weeks of January, April, July, and October.

The last check under the existing program will be issued in January, 1977. The first check under the new act will be issued in April, 1977, and the last check to be issued under the new act will be in October, 1980.

ESTIMATES OF PAYMENTS

Initial 3/4 Transition Year

In April, 1976, all recipients received from the ORS an estimate of funds to be received during the last six months of the current act (July 1 to December 31, 1976, with payments in October, 1976, and January, 1977). These estimates were based on an annualized funding rate of $6.65 billion, which is the same rate of funding for the first 3/4 years of the new program (January 1, 1977, to September 30, 1977, with payments in April, July, and October). Quarterly payments for the first 3/4 year should be identical to the payments for October, 1976, and January, 1977. Local governments should receive official confirmation of these estimates from ORS before January 1, 1977.

Fiscal Years '78, '79 and '80

Beginning on October 1, 1977, the annual rate of funding will be held constant at $6.85 billion for the remainder of the program. This is approximately 3 percent above the current level of funding. Before October 1 of each year ORS will notify each recipient government of the funds it can expect for the upcoming fiscal year (but the first quarterly payment will not be made until January). While the annual rate of funding is held constant, individual allocations may fluctuate from year to year because of changes in the formula data.

Citizen Participation, Reporting, and Publication Requirements

There are eight procedural steps required under the new act. Each requirement is described below, in chronological order (see Table I--Timetable).

1. An assurance form submitted to Treasury is a precondition to receipt of revenue sharing funds (same as present law).
2. Adequate public notice of upcoming hearings on the proposed use of revenue sharing funds is required. The law does not specify a form to be used to give notice.

3. A proposed-use report hearing must be held to discuss with citizens the possible uses of revenue sharing funds at least seven calendar days before presentation of the budget. This may be waived if the cost of the hearing exceeds 15 percent of the revenue sharing entitlement.

4. The act requires publication of the proposed use of revenue sharing funds, along with a summary of the proposed budget and notice of time and place of budget hearings. The publication must occur in a general circulation newspaper at least 10 days before the actual budget hearing. A waiver may be granted for:

   a. The 10-day requirement if the secretary is satisfied that local government law presently requires publication of budget summary on a different but adequate timetable (for example, 7 days before the hearing would be acceptable, but publication on the day of the hearing would not)

   b. Publication in general circulation newspaper, if the cost of such publication exceeds 15 percent of revenue sharing entitlement

The final regulations will make allowance for alternative publication methods, such as a consolidated publication for different localities that clearly identifies each unit's proposed uses and budget summary; or publication of a notice as a part of water bills in a locality which is not served by a newspaper of general circulation.

5. The act requires a budget hearing on the proposed use of revenue sharing funds in relation to the locality's entire budget. The hearing must be held at a place and time that encourages public attendance and participation. Senior citizens' participation must be encouraged by local officials. A waiver may be granted if current state or local law, or charter provisions, assure public attendance and participation in the normal budget hearing. The regulations will deal with situations in which a recipient does not formally enact or adopt a single budget.

6. A budget summary must be prepared 30 days after the adoption of the budget and made available for public inspection at the principal office of the recipient.

   The committee report emphasizes that the document should be available as much as possible at other public places, including libraries, although the act does not require the recipient of funds to distribute it to these places.

7. Publication of a notice of availability of the budget summary (item 6) in a general circulation paper is required. A waiver may be granted if the cost of such publication would exceed 15 percent of the total entitlement.
TABLE I
Timetable

All Citizen Participation Requirements are Geared to the Recipient's Fiscal Year.

<table>
<thead>
<tr>
<th>Public notice of upcoming proposed-use hearing</th>
<th>&quot;Adequate&quot; Time</th>
<th>Proposed-use hearing</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>at least 7 days</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Presentation of Budget to Council</td>
<td></td>
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<tr>
<td>Publication of:</td>
<td>at least 10 days</td>
<td>Budget Hearing</td>
</tr>
<tr>
<td>1. Budget summary with proposed use of revenue sharing funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Time and place of budget hearing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Adoption of budget</td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 days</td>
<td></td>
</tr>
<tr>
<td>1. Preparation of summary of adopted budget with comparison to proposed use of revenue sharing funds.</td>
<td></td>
<td>End of city's fiscal year</td>
</tr>
<tr>
<td>2. Notification published that summary is available for public inspection.</td>
<td></td>
<td>Actual-use report sent to secty. of Treasury</td>
</tr>
</tbody>
</table>

Important note: Hearings and reports pertain to funds to be spent or obligated during a recipient's fiscal year and not to revenue sharing funds actually received.
8. An actual-use report must be sent to the secretary of treasury and must be made available to the public following the close of the recipient's fiscal year. The report must include:

a. The amounts and purposes for which the revenue sharing funds were appropriated, spent, or obligated

b. The relationship of the funds to the relevant functional items in the recipient's budget

c. Identification of the differences between the actual use of funds and the proposed use of funds

The regulations will dictate the form and detail of the actual-use report. The secretary of treasury will submit this report to the governor of the recipient's state.

The secretary of treasury will draw on the actual-use report to submit to Congress an annual report on the implementation and administration of the law. The report will include:

1. Measures taken to comply with the nondiscrimination section, including all pending complaints

2. Description of the nature and extent of noncompliance with auditing requirements

3. Techniques used for distribution of funds

4. Any significant administrative problems with the act and recommendations for alleviating those problems

Auditing and Accounting Requirements

Every three years a recipient government's financial statements must be subjected to an independent financial and compliance audit, conducted according to generally accepted auditing standards and principles. Exceptions to this audit are:

1. Governments receiving less than $25,000 in revenue sharing entitlements in any fiscal period are exempt.

2. Governments whose financial statements are independently audited in accordance with generally acceptable state or local audit requirements may follow their own procedure but must include a brief description of the auditing standards applied.

3. For governments that are unauditable, under either the general audit requirement or under state or local audit requirements, the secretary of treasury may waive the requirement if the recipient is making substantial progress towards making its accounts auditable. Regulations on what constitutes "substantial progress" will be published later this year.

4. Other audits already required by the federal government may be accepted as satisfactory by the secretary.

The new act directs the comptroller general to review the efforts of the secretary and recipient governments in complying with this section.
Civil Rights Provisions

SCOPE OF COVERAGE OF ANTIDISCRIMINATION PROVISIONS

The new act extends existing provisions prohibiting discrimination on the basis of race, color, national origin, and sex and adds the following new categories under federal laws that now become applicable to revenue sharing funds:

1. Age discrimination is prohibited under the Age Discrimination Act of 1975. This prohibition will not take effect until January 1, 1979, which is the effective date of the Age Discrimination Act.

2. Discrimination because of handicapped status is prohibited in section 504 of the Rehabilitation Act of 1973. This prohibition does not apply to construction projects begun before January 1, 1977.

3. Discrimination because of religion is prohibited under the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. Exceptions listed in these acts also apply.

APPLICABILITY OF CIVIL RIGHTS PROVISIONS TO LOCAL GOVERNMENT ACTIVITY

The above prohibitions apply to all local government programs or activities unless the local government proves, by clear and convincing evidence, that revenue sharing funds are not involved in the activity in which discrimination is alleged. It is important to note that the words "directly and indirectly involved" were deleted during conference. The report language states:

By this deletion, it is intended that, if the recipient government demonstrates by clear and convincing evidence that the challenged program or activity is not directly funded with revenue sharing funds, then that program or activity does not violate the nondiscrimination provision.

It appears that as long as local governments can maintain an identifiable audit trail on the use of revenue sharing funds, the antidiscrimination provision is limited to "directly" funded programs and activities. However, if the revenue sharing dollars go into the general fund and their identity is completely lost, the antidiscrimination provision will apply to all local government programs or activities.

WITHHOLDING OF REVENUE SHARING FUNDS

Trigger Mechanisms for Noncompliance

The secretary of the treasury has 10 days to issue a noncompliance notice to a recipient government if:

1. The secretary has received notice that a federal or state court or a federal administrative law judge has held that
discrimination exists in a local government activity. (NOTE: Any finding by a federal administrative law judge must be in compliance with due process procedures under the Administrative Procedures Act.)

2. The secretary, based on his own investigation, has determined that a local government has failed to comply with the civil rights provisions. This investigation may be triggered by a complaint or by information available to the secretary from ORS or from any other federal agency.

Local Government Response to Notification of Noncompliance

Within 30 days of receipt of a notice of noncompliance, a local government may present its case to the secretary. If the noncompliance notice was triggered by an investigation (see 2 above), both the issues of discrimination and the involvement of revenue sharing funds may be argued. However, if the notice was triggered by a court or an administrative law judge's action, then the only issue subject to discussion is the involvement of revenue sharing funds in the activity in which discrimination has been found.

At the end of this 30 days, the secretary must issue a determination. If the secretary makes a finding of discrimination, the local government has 10 days to request a full hearing before an administrative law judge. If the government does not request a hearing, funds are automatically suspended.

Administrative Law Judge Hearing

A hearing must begin within 30 days after a local government has requested an administrative hearing. Then, within 30 days after the beginning of the hearing, the administrative law judge must make a preliminary finding as to whether the local government is likely to lose. If this preliminary ruling is against the local government, then revenue sharing funds must be suspended. At the end of this hearing the administrative law judge must make a finding based upon the complete record of evidence, and if the judge finds a local government in noncompliance, indefinite suspension of revenue sharing funds occurs within 30 days.

RESUMPTION OF SUSPENDED FUNDS

Suspended funds may be restored under any one of the following conditions:

1. The local government enters into a compliance agreement with the secretary

2. The administrative law judge holds that a local government is in compliance

3. A local government complies fully with a court or federal administrative law judge's orders

4. An appellate court reverses the decision of noncompliance made by a lower court or an administrative law judge.

ATTORNEY FEES

In a private-citizen action to enforce the civil rights provisions, a court may award reasonable attorney fees to the prevailing party (other than the U.S.).
CONGRESSIONAL RECORD — HOUSE

September 28, 1976

SEC. 1. SHORT TITLE.
This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976."

SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.
Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat. 919).

SEC. 3. ELIMINATION OF EXPENDITURE CATEGORIES.
(a) Section 103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.
(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

SEC. 4. ELIMINATION OF PROHIBITION ON USE OF FINANCING.
(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.
(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b)" or "104(c)."

SEC. 5. PROGRAM AND FUNDING.
(a) In general.—Section 106 (relating to funding for revenue sharing) is amended—
(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a) (1);
(2) by redesignating subsection (c) as subsection (b) (the following new subsection being added after subsection (b)):
"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTERPRISES.
"(1) In general.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—
"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,000,000; and
"(B) for each of the fiscal years beginning October 1 of 1977, 1978, and 1979, $5,850,000,000.
"(2) NONCONTINUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—
"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000,000; and
"(B) for each of the fiscal years beginning October 1 of 1977, 1978, and 1979, $4,923,750,000;
"(c) by inserting "AUTHORIZED FOR ENTREPRISE" in the heading of the section immediately after "APPROPRIATIONS"; and
(b) CONFORMING AMENDMENTS—
(1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:
"(a) In general.—There shall be allocated to each State an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and
(2) Subsection (b) of section 106 (relating to general rule for determining allocable amounts) is amended to read as follows:
"(b) By general rule for determining allocable amounts.—The amount allocable to a State under subsection (a) shall be determined under the general rule set forth in paragraph (2) except that such amount shall be determined under paragraph (3) if—
(1) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (2) is greater than the amount allocable to such State under paragraph (3).
(2) Paragraph (1) (relating to general rule for determining allocable amounts) is amended to read as follows:
"(1) GENERAL RULE.—
"(A) FOR ENTITLEMENT PERIODS.—The amount allocable to any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—
(1) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding three entitlement periods, except that the average of the aggregate amounts of local government in such State, is less than—
(2) the similar aggregate amount for the one-year period beginning before December 1, 1976, or for the one-year period beginning before December 1, 1977, as the case may be.
(B) Post-1976 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—
(1) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year, or during the calendar year, for which the aggregate amounts are available, by regulation prescribed by the Secretary, on the first day of such entitlement period, are less than—
(2) one-half of the aggregate amounts which such State government had transferred to units of local government in such State during the one-year period beginning before December 1, 1976, or for the one-year period beginning before December 1, 1977, as the case may be.
(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:
"(1) In general.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—
"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (2) is greater than the amount allocated under such paragraph.
"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (2).".
"(2) Paragraph (3) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:
"(3) (A) for the period beginning January 1, 1977, out of amounts appropriated under section 105 (b) (2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and
"(B) In the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105 (c) (2)."
"(4) Section 106(c) (2) (relating to amount of noncontiguous State adjustments) is amended—
(1) by striking out "subsection (b) (3)" and inserting in lieu thereof "subsection (b)";
(2) by inserting immediately after "subsection (b) (3)" and inserting in lieu thereof "subsection (b)";
(3) by redesignating subsection (c) as subsection (b) (the following new subsection being added after subsection (b),
"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTERPRISES.
"(1) In general.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—
"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,000,000; and
"(B) for each of the fiscal years beginning October 1 of 1977, 1978, and 1979, $5,850,000,000.
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"(b) By general rule for determining allocable amounts.—The amount allocable to a State under subsection (a) shall be determined under the general rule set forth in paragraph (2) except that such amount shall be determined under paragraph (3) if—
(1) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105 (b) (1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and
(3) Section 141(b) (relating to definition of "entitlement period") is amended by inserting at the end thereof the following new paragraphs:
SEC. 6. SPECIAL ENTITLEMENT RULES.
(a) STATE MAINTENANCE OF TRANSFERS TO LOCAL GOVERNMENTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—
"(1) Subsection (a) of section 107 (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:
"(1) GENERAL RULE.—
"(A) FOR ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—
(1) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding three entitlement periods, except that the average of the aggregate amounts of local government in such State, is less than—
(2) the similar aggregate amount for the one-year period beginning before December 1, 1976, or for the one-year period beginning before December 1, 1977, as the case may be.
(B) Post-1976 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—
(1) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year, or during the calendar year, for which the aggregate amounts are available, by regulation prescribed by the Secretary, on the first day of such entitlement period, are less than—
(2) one-half of the aggregate amounts which such State government had transferred to units of local government in such State during the one-year period beginning before December 1, 1976, or for the one-year period beginning before December 1, 1977, as the case may be.
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ing the period utilized for purposes of para­

(1) WAIVERS BY INDIAN TRIBES AND ALASKAN

(b) Waivers by Indian Tribes and Alaskan

NATIVE VILLAGES—

(1) Paragraph (4) of section 108(b) (rel­

(2) Paragraph (8) of section 108(b) (rel­

ating to Indian tribes and Alaskan native

ating to effect of waivers) is amended by ad­

vances in such State for such entitlement

(3) SEPARATE LAW ENFORCEMENT OFFI­

(c) Separate Law Enforcement Official­

ce.—The entitlement of the government of

nership shall be entitled to receive,

period. For purposes of this paragraph—

government of Louisiana for an entitlement

the amount which would (but for the pro­

paragraph (2) for governments of county

nership for such period shall be considered

same is amended by striking out “and any adj­

ment period covered by this paragraph.

areas in such State for such entitlement

of the entitlement for the separate law en­

the following new subsection:

“(2) CONFORMING AMENDMENTS.—

(A) Section 108(b) (7) (A) (relating to gen­

eral, (2) shall not apply,

ation period beginning after December 31,

amount equal to 7.5 percent of the amount

(3) REDUCTION OF ENTITLEMENT OF

(2) Reduction of entitlement of county

entitlement of a county for an area for an

ment for any entitlement period begin­

entitlement for the separate law enforce­

(2) Paragraph (7) (A) (relating to sub­

ments provided for in subsection (6) of

(2) LIMITATIONS ON ADJUSTMENTS.—No

by strike out “Except” and inserting in lieu

(3) Reduction of entitlement of state

government for an area for an entitlement

be reduced by an amount equal to 10 percent

(6) RESERVES FOR ADJUSTMENTS.—The

The entitlement of the state government of

entitlement for any entitlement period

ment for any entitlement period beginning

section 108(b) (relating to payments to State

same is amended by striking out “and any adj­

ment period for which funds received under

ment and local government fiscal assistant

Government.—The entitlement of each such

ment for which funds received under sub­

The entitlement of each such government

entitlement of such parish.

(2) CONFORMING AMENDMENTS.—

(A) Section 108(b) (7) (A) (relating to gen­

eral, (2) shall not apply,

the entitlement for the separate law enforce­

The entitlement for the separate law en­

entitlement period with respect to which the

the purpose of applying this paragraph to the

entitlement of each such government.

entitlement period with respect to which the

entitled to receive for each entitlement period

ment period beginning after December 31,

government of Louisiana may be entitled to

entitlement for the separate law enforce­

entitlement period beginning after December

ment period with respect to which the

entitlement of each such government.

entitlement period beginning after December

entitlement period beginning after December

entitlement period with respect to which the

entitlement period with respect to which the

entitlement period of such government.

entitlement period beginning after December

entitlement period beginning after December

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general circulation, the proposed use of funds provided under the Act pursuant to such a hearing.

Section 8. NONDISCRIMINATION PROVISIONS.

(a) IN GENERAL.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"SEC. 122. NONDISCRIMINATION PROVISIONS.

"(a) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit has received funds provided under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of handicap is amended to read as follows:

"(f) REPORT TO CONGRESS.—The provisions of paragraph (1) of this subsection shall not apply with respect to funds provided under the Act pursuant to such a hearing, and the summaries, in accordance with regulations prescribed by the Secretary, shall be submitted to Congress:

"(1) the measures taken to comply with section 123, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of that section;

"(3) the manner in which funds distributed under subtitle A have been distributed in recipient jurisdictions;

"(4) any significant problems arising in the administration of the Act and the proposals to remedy such problems through appropriate legislation and administration;

"(5) PARTICIPATION BY SENIOR CITIZENS.—In conducting any hearing required under this section, or under its own budget procedures, the Secretary shall endeavor to provide senior citizens and their organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.

"(b) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit has received funds provided under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(2) EXCEPTIONS.—

"(A) In general.—The provisions of paragraph (1) of this subsection shall not apply with respect to any program of activity of a State government or unit of local government if the Secretary has previously been issued a determination that such government has previously been issued a determination that such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(B) IN CONSTRUCTION PROJECTS IN PROGRESS.—The provisions of paragraph (1), relating to discrimination on the basis of handicap, shall not apply to any such program or activity under the termination of payment of funds provided under this Act.

"(C) IN THE EVENT OF A DETERMINATION.—If a determination is made under subparagraph (D) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(1) NOTICE OF NONCOMPLIANCE.—Within 10 days after the Secretary has received a notice of noncompliance, the Secretary shall issue a notice of noncompliance to the State government or unit of local government involved.

"(2) NOTICE TO CONGRESS.—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress, setting forth the basis or such holding or suspension, and the action taken thereon.

"(3) NOTICE TO ADMINISTRATIVE LAW JUDGE.—If a decision of the administrative law judge is appealed to the Secretary, the Secretary shall take such action as he determines appropriate.

"(4) NOTICE TO COURT.—If a decision of the administrative law judge is appealed to the Secretary, the Secretary shall take such action as he determines appropriate.

"(5) REPORT TO CONGRESS.—The provisions of paragraph (1) of this subsection shall not apply with respect to any program or activity of a State government or unit of local government if the Secretary has previously been issued a determination that such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(D) IN THE EVENT OF A DETERMINATION.—If a determination is made under subparagraph (D) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(E) In the event of a determination described in subparagraph (C), the administrative law judge may, in his discretion, order the termination of payment of funds under subtitle A to such government or unit of local government.

"(2) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(c) HOLDING BY COURT OR GOVERNMENTAL ENTITY.—If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(2) EFFECT ON PROCEEDINGS OR HEARING.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government which has received funds provided under subtitle A, such holding shall be taken as a compliance agreement with respect to such government or unit of local government, and the Secretary shall provide such government or unit with such guidance and assistance as may be necessary to enable such government or unit to comply with the nondiscrimination provisions of this Act.

"(3) EFFECT ON REVENUE SHARING FUNDS.—If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(4) EFFECT ON CONSTRUCTION PROJECTS.—If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(5) EFFECT ON CONSTRUCTION PROJECTS.—If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(6) EFFECT ON CONSTRUCTION PROJECTS.—If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.

"(7) EFFECT ON CONSTRUCTION PROJECTS.—If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement or requests a hearing with respect to such determination, the suspension shall be prolonged until such agreement is entered into or such hearing is held.
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The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (d) only at the times and under the circumstances set forth in the Secretary’s approval of such agreement.

(4) COMPLIANCE AGREEMENT.—For purposes of this section, compliance by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a).

(5) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has failed to comply with subsection (a).

(6) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a).

(7) ENFORCEMENT.—Subtitle B (relating to administrative provisions) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

(8) ENFORCEMENT.—Subsection B for or in the name of the United States, may intervene upon timely application therefor.

(9) SEC. 9. ACCOUNTING AND AUDITING PROVISIONS. Section 921(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (9), and

(2) by striking paragraph (1) and inserting in lieu thereof the following new paragraph (1):

(10) SEC. 10. AUDITS.—It is authorized to conduct, in accordance with generally accepted auditing standards, not less often than once every 3 years.
single audit for purposes of paragraph (1) and paragraph (2) of section 122(b) of the Act, except for such fiscal period, conducted in accordance with the provisions of any Federal law other than this subtitle, shall be made available — under subparagraph (A), unless subparagraph (B) applies for such fiscal period.

(2) FUNDING SCHEDULE.—For any fiscal period for which such an audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1), the Secretary to make such findings and determinations under section 108(d).

(7) AUDIT OPINIONS.—Any opinions rendered with respect to audits made pursuant to this subtitle are submitted to the Secretary, in such form and at such times as he may require.

(8) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work of the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operation under this title.

SEC. 10. MISCELLANEOUS PROVISIONS
(a) BUDGET ACT.—In accordance with section 401(d) (2) of the Congressional Budget Act of 1974 (98 Stat. 297, 318), subsections (a) and (b) of section 401(e) of such Act shall not apply to this Act.

(b) DEFINITION OF "UNIT OF LOCAL GOVERNMENT".—Section 108(d)(1) (defining a "unit of local government" as a city, village, town, or township, which is a unit of general government) is amended by striking out "municipality, township, or other unit of local government below the State which is a unit of general government" and inserting in lieu thereof "municipality, or township, which is a unit of general government below the State which is a unit of general government".

Sec. 11. STUDY OF REVENUE SHARING AND FEDERALISM.
Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"Sec. 146. STUDY OF REVENUE SHARING AND FEDERALISM.
(a) Study.—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of the Federal, State, and local governments to determine how general local governments are affected by such allocations and coordination;

"(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of its service and financing responsibilities, as well as designation and incorporation responsibilities;

"(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

"(4) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions;

"(5) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments; and

"(b) Cooperation of Other Federal Agencies.—

"(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

"(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed upon between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(b) Report.—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the day on which the first appropriation is made available under subsection (d), a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

Sec. 12. PROHIBITION ON USE FOR LOBBYING PURPOSES
Section 123 relating to miscellaneous provisions is amended by adding at the end thereof the following new subsection:

"(e) PROHIBITION ON USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, "a State" shall mean the States, the District of Columbia, and the outlying areas of the United States.

Sec. 13. EFFECTIVE DATES.
(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.
(b) The amendment made by section 11 takes effect on February 1, 1977.

And the Senate agrees to the same.