94TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 94–1720

THE STATE AND LOCAL FISCAL ASSISTANCE AMENDMENTS OF 1976

SEPTEMBER 29, 1976.—Ordered to be printed

Mr. BROOKS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 13367]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 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103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.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 (8).

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SEC. 4. ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING.

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.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".

SEC. 5. EXTENSION OF PROGRAM AND FUNDING.

(a) IN GENERAL.—Section 105 (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 (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(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, $4,987,500,000; and

"(B) for each of the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,850,000,000.

"(2) NONCONTIGUOUS 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; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,923,759."; and

*(4) by inserting "; **AUTHORIZATIONS FOR ENTITLEMENTS**" in the heading of such section immediately after "**APPROPRIATIONS**"*

(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 an entitlement to each State—

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated 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

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized 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)."

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) 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 (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

"(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2).".

(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

"(1) IN GENERAL.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

"(A) in the case of an entitlement period beginning before December 31, 1976, 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—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)", and

(B) by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) (relating to optional formula for allocation among local governments) is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) (relating to definition of "entitlement period") is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning October 1 of 1977, 1978, and 1979.".

SEC. 6. SPECIAL ENTITLEMENT RULES.

(a) STATE MAINTENANCE OF TRANSFERS TO LOCAL GOVERNMENTS.—

(1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) PRE-1977 ENTITLEMENT PERIOD.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

"(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

"(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—

"(i) 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 of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

"(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

"(C) For purposes of subparagraphs (A)(i) and (B)(i), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.".

(2) Section 107(b)(2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out "under paragraph (1)(B)" and inserting in lieu thereof "under paragraph (1)(A)(ii) or (1)(B)(ii)"; and

(B) by striking out "the one-year period beginning July 1, 1971," and inserting in lieu thereof "the period utilized for purposes of such paragraph".

(3) Section 107(b)(3) (relating to adjustments in the case of new taxing powers) is amended by striking out "paragraph (1)(B)" and inserting in lieu thereof "paragraph (1)(A)(ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1)(B)(ii) (in the case of an entitlement period beginning on or after January 1, 1977)".

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs

(6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into account under clauses (i) and (ii) of paragraph (1)(B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

"(7) ADJUSTMENT WHERE FEDERAL GOVERNMENT ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If, for an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1)(B)(i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1)(B)(ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph (1)(B)(ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1)(B)(ii).".

(b) WAIVERS BY INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence.

(2) Paragraph (6)(D) of such section (relating to effect of waivers) is amended by adding at the end thereof the following: "If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such tribe or village is located.".

(c) SEPARATE LAW ENFORCEMENT OFFICERS.—

(1) GENERAL RULE.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

"(e) SEPARATE LAW ENFORCEMENT OFFICERS.—

"(1) ENTITLEMENT OF SEPARATE LAW ENFORCEMENT OFFICERS.—The office of the separate law enforcement officer for any county area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area. The office of the separate law enforcement officer for the parish of East Baton Rouge shall be entitled to receive for

each entitlement period beginning on or after January 1, 1977, an amount equal to 7.5 percent of the sum of the amounts which would (but for the provisions of this subsection) be the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each such entitlement period.

"(2) REDUCTION OF ENTITLEMENT OF COUNTY GOVERNMENT.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period. For the purpose of applying this paragraph to the parish of East Baton Rouge, Louisiana, the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each entitlement period shall each be reduced by an amount equal to 3.75 percent of the amount which would (but for the provisions of this paragraph) be the entitlement of each such government.

"(3) REDUCTION OF ENTITLEMENT OF STATE GOVERNMENT.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period. For purposes of this paragraph—

"(A) the reductions provided under paragraph (2) for the governments of Baton Rouge, Baker, and Zachary, Louisiana, shall be considered as reductions of entitlements of governments of county areas, and

"(B) the entitlement of the parish of Orleans for an entitlement period shall be considered to have been reduced by an amount equal to the additional amount provided for such parish for that entitlement period under paragraph (4).

"(4) ENTITLEMENT OF PARISH OF ORLEANS.—In the case of the parish of Orleans, Louisiana, paragraphs (1) and (2) shall not apply, and such parish shall be entitled to receive, for each entitlement period beginning after December 31, 1976, an additional amount equal to 7.5 percent of the amount which would otherwise be the entitlement of such parish.".

(2) CONFORMING AMENDMENTS.—

(A) Section 108(b)(7)(A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6)(D) last." and inserting in lieu thereof "any adjustment required under paragraph (6)(D) next, and any adjustment required under subsection (e) last.".

(B) Section 108(d)(1) (defining "unit of local government") is amended by adding at the end thereof the following: "Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e)(1) applies.".

(C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For reduction of State government entitlement because of provision for separate law enforcement officers, see section 108(e).".

(*d*) *CURRENCY OF DATA.*—

(*1*) *Section 109(a)(7) (relating to data used and uniformity of data) is amended—*

(*A*) *in subparagraph (A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) or (C)", and*

(*B*) *by adding at the end thereof the following new subparagraph:*

"(*C*) *TAX COLLECTIONS.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c)(2)(B)) shall not be used in the determination of entitlements for such period.".*

(*2*) *Section 109(c)(2)(B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.".*

(*e*) *LIMITATION ON ADJUSTMENT OF PAYMENTS.—Section 102 (relating to payments to State and local governments) is amended—*

(*1*) *by striking out "Except" and inserting in lieu thereof "(a) IN GENERAL.—Except"; and*

(*2*) *adding at the end thereof the following new subsection:*

"(*b*) *LIMITATIONS ON ADJUSTMENTS.—No adjustment shall be made to increase or decrease a payment made for any entitlement period beginning after December 31, 1976, to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made."*

(*f*) *RESERVES FOR ADJUSTMENTS.—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:*

"(*c*) *RESERVES FOR ADJUSTMENTS.—The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.".*

(*g*) *RECOVERY OF CERTAIN OVERPAYMENTS.—In the case of an adjustment to decrease a payment made for an entitlement period ending before January 1, 1977, under title I of the State and Local Fiscal Assistance Act of 1972 to a unit of local government (as defined in section 108(d)(1) of that Act), the amount of such adjustment shall be withheld from the reserves for adjustments established by the Secretary under section 102(c) of such Act for the State within which such units of local government are located. Amounts withheld under this subsection shall be covered into the State and Local Government Fiscal Assistance Trust Fund.*

SEC. 7. CITIZEN PARTICIPATION; REPORTS, ENFORCEMENT.

(*a*) *CITIZENS PARTICIPATION.—Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows:*

"SEC. 121. REPORT ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

(a) REPORTS ON USE OF FUNDS.—Each State government and units of local government which receives funds under subtitle A shall, after the close of each fiscal year, submit a report to the Secretary (which report shall be avaialable to the public for inspection setting forth the amounts and purposes for which funds received under subtitle A have been appropriated, spent, or obligated during such period and showing the relationship of those funds to the relevant functional items in the government's budget. Such report shall identify differences between the actual use of funds reecived and the proposed use of such funds. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(1) HEARING ON PROPOSED USE.—Not less than 7 calendar days before its budget is presented to the governmental body responsible for enacting the budget, each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds before the governmental authority responsible for presenting the proposed budget to such body.

"(2) BUDGET HEARING.—Each State government or unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall have at least one public hearing on the proposed use of such funds in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to ask questions concerning the entire budget and the relation thereto of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) WAIVER.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitle A in relation to its entire budget.

"(c) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED USE OF FUNDS.—

"(1) IN GENERAL.—Each State government and unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall—

(A) at least 10 days prior to the public hearing required by subsection (b)(2)—

"(b) Public Hearings Required.—

"(i) publish, in at least one newspaper of general circulation, the proposed uses of funds made available under subtitle A together with a summary of its proposed budget and a notice of the time and place of such public hearing; and

"(ii) make available for inspection by the public at the principal office of such State government or unit of local government a statement of the proposed use of funds, together with a summary of its proposed budget: and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) make a summary of the adopted budget, including the proposed use of funds made available under subtitle A, available for inspection by the public at the principal office of such State government or unit of local government; and

"(ii) publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to in clause (i).

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use of funds and the summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 10-day provisions of paragraph (1)(A) may be modified to the maximum extent necessary to comply with applicable State and local law if the Secretary is satisfied that the citizens of such State or local government will receive adequate notification of the proposed use of funds consistent with the intent of this section.

"(d) Report Submitted to the Governor.—The Secretary shall furnish to the Governor of the State in which any unit of local government which receives funds under subtitle A is located, a copy of each report filed with the Secretary as required under subsection (a), in such manner and form as the Secretary may prescribe by regulation.

"(e) Budgets.—The Secretary shall promulgate regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.

"(f) Report of the Secretary.—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of—

"(1) the measures taken to comply with section 122, 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 such section;*

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

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

"(g) *PARTICIPATION BY SENIOR CITIZENS.—In conducting any hearing required under this section, or under its own budget processes, a State or unit of local government 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) *ENFORCEMENT.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new sections:*

"SEC. 124. PRIVATE CIVIL ACTIONS.

"(a) *STANDING.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.*

"(b) *RELIEF.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.*

SEC. 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 receives funds made available 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 religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, hereafter referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.*

"(2) *Exceptions.*—

"(A) *Funding.*—*The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under subtitle A.*

"(B) *Construction projects in progress.*—*The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.*

"(b) *Determination by the Secretary.*—

"(1) *Notice of noncompliance.*—*Within 10 days after the Secretary has received a holding described in subsection (c) (1) or has made a finding described in subsection (c) (4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government setting forth the basis of such holding or finding.*

"(2) *Procedure before secretary; suspension of payment of revenue sharing funds.*—*Within 30 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of*—

"(A) *(except in the case of a holding described in subsection (c) (1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of 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, or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, and*

"(B) *whether the program or activity in connection with which such exclusion, denial, discrimination, or violation is charged has been funded in whole or in part with funds made available under subtitle A.*

Before the end of the such 30-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government within the 10 day period following such determination enters into a compliance agreement or requests a hearing with respect to such determination.

"(3) HEARINGS BEFORE ADMINISTRATIVE LAW JUDGE; SUSPENSION OR TERMINATION OF PAYMENT OF REVENUE SHARING FUND.—

"(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

"(B) Within 30 days after the beginning of the hearing provided under subparagraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c)(2)) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

"(C) 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 before the 31st day after such issuance, the Secretary, subject to the provisions of subparagraph (D), shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then, subject to the provisions of subparagraph (D), that suspension is to be continued.

"(D) 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.

"(E) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly discontinued.

"(c) HOLDING BY COURT OR GOVERNMENTAL AGENCY; FINDING BY SECRETARY.—

"(1) DESCRIPTION.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expends funds received under subtitle A that such government has, in the case of a person in the United States, excluded such person from participation in, denied such person the benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national origin, or sex, or violated any prohibition against discrimination (A) on the basis of age under the Age Discrimination Act of 1975 or (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973 or (C) on the basis of religion

as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, in connection with any such program or activity.

"(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, then, in the case of proceedings by the Secretary pursuant to subsection (b)(2) or a hearing pursuant to subsection (b)(3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, discrimination, or violation occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination (A) on the basis of age effected by the Age Discrimination Act of 1975. (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973 (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, shall be treated as conclusive.

"(3) EFFECT OF REVERSAL.—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be discontinued; any suspension or termination of payments resulting from such proceedings shall also be discontinued.

"(4) FINDING BY SECRETARY.—A finding is described in this paragraph if it is a finding by the Secretary with respect to a complaint referred to in section 124(d), a determination by a State or local administrative agency, or other information (pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

"(d) COMPLIANCE AGREEMENT.—For purposes of this section and section 124, a compliance agreement is an agreement between—

"(1) the governmental office or agency responsible for prosecuting the claim or complaint which is the basis of the holding described in subsection (c)(1) and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), if such agreement is approved by the Secretary, or

"(2) the Secretary and such chief executive officer, setting forth the terms and conditions with which such government or unit has agreed to comply that would satisfy the obligations of such government under subsection (a). Such agreement shall cover all the matters which had been determined or would constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (1), the approval of

such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint referred to in section 124(d) with respect to such failure to comply with subsection (a), or, in the case of an agreement under paragraph (1), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a).

"*(e) RESUMPTION OF SUSPENDED PAYMENTS.—If payment to a State government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b)(2) or (b)(3), payment of such funds shall be resumed only if—*

"*(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement, or, in the case of any agreement under subsection (d)(1), only at the times and under the circumstances set forth in the Secretary's approval of such agreement);*

"*(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b)(1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;*

"*(3) in the case of a hearing before an administrative law judge under subsection (b)(3), the judge determines that such government is in compliance with subsection (a); or*

"*(4) the provisions of subsection (c)(3) (relating to reversal of holding of discrimination) require such suspension of payment to be discontinued.*

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).

"*(f) RESUMPTION OF TERMINATED PAYMENTS.—If payment to a State government or unit of local government of funds made available under subtitle A has been terminated under subsection (b)(3)(E), payment of such funds shall be resumed only if the determination resulting in such termination is reversed by an appellate tribunal.*

"*(g) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.*

"*(h) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncom-*

pliance with subsection (a). The agreements shall describe the co-operative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.".

"(c) INTERVENTION BY ATTORNEY GENERAL.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"(d) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—As used in this section, administrative remedies shall be deemed to be exhausted upon the expiration of 90 days after the date the administrative complaints were filed with the Secretary or with an Agency with which the Secretary has an agreement under section 122(h) if, within such period, the Secretary or such Agency—

"(1) issues a determination that such Government under unit has not failed to comply with this Act; or

"(2) fails to issue a determination on such complaint.

"(e) ATTORNEY FEES.—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person.

"SEC. 125. INVESTIGATIONS AND COMPLIANCE REVIEWS.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits (in no event to exceed 90 days) for the Secretary to conduct an investigation and make a finding after receiving a complaint (described in section 124(d)), a determination by a State or local administrative agency, or other information relating to the possible violation of the provisions of this Act;

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews (including investigations of allegations) relating to possible violations of the provisions of this Act.

The regulations promulgated pursuant to paragraphs (1) and (2) shall also establish reasonable and specific time limits for the Secretary to advise any complainant of the status of his investigation, audit, or review of any allegation of violation of section 122(a) or any other provision of this Act."

(c) JUDICIAL REVIEW.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) a determination under section 122(b)(3)(C) that payments be suspended, or a determination under section 122 (b)(3)(D) that payments be terminated,".

SEC. 9. ACCOUNTING AND AUDITING PROVISIONS.

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

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

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

"(1) INDEPENDENT AUDITS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) ELECTION.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable.

"(3) SERIES OF AUDITS.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

"(4) ENTITLEMENTS UNDER $25,000.—

"(A) The requirements of paragraph (1) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than $25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

"(B) In the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statements, then the conducting of such audit shall constitute compliance with the requirements of paragraph (1).

"(5) WAIVER.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such governments for such period are not auditable, and (B) that such government demonstrates substantial progress toward making such financial accounts auditable.

"(6) COORDINATION WITH OTHER FEDERALLY REQUIRED AUDITS.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

"(7) AUDIT OPINIONS.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided 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 as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) BUDGET ACT.—In accordance with section 401(d)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d)(2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

(b) DEFINITION OF "UNIT OF LOCAL GOVERNMENT".—Section 108(d)(1) (defining "unit of local 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".

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. 145. 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 other Federal Government systems;

"(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 service and financing responsibilities, as well as annexation 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.*

"(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 between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.*

"(3) *The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.*

"(c) *REPORTS.—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.*

"(d) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.".*

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 OF 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, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.".*

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 agree to the same.

Jack Brooks,
L. H. Fountain.
Don Fuqua,
Edward Mezvinsky.
Barbara Jordan.
John Burton,
Robert F. Drinan.
Frank Horton.
John W. Wydler,
Clarence J. Brown,

Managers on the part of the House.

Russell B. Long.
Herman Talmadge.
Gaylord Nelson.
Mike Gravel,
W. D. Hathaway.
Paul Fannin.
Cliff Hansen.
Bob Packwood.

Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill HR 13367 to extend and award the State and local Fiscal Assistance Act of 1972, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a complete substitute for the Senate amendment, and the Senate agrees to the same. The differences among the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

The House bill is entitled the "Fiscal Assistance Amendments of 1976."

Senate amendment

The Senate amendment is entitled the "State and Local Fiscal Assistance Amendments of 1976."

Conference substitute

The conference substitute is the same as the Senate amendment.

AMENDMENT OF 1972 ACT

House bill

The House bill provides that all references to "the Act" are references to the State and Local Fiscal Assistance Act of 1972.

Senate amendment

The Senate amendment provides that all references to section numbers are to section numbers of the State and Local Fiscal Assistance Act of 1972, as amended.

Conference substitute

The conference substitute is the same as the Senate amendment.

ELIMINATION OF EXPENDITURE CATEGORIES

The House bill, the Senate amendment, and the Conference substitute provide in section 3, that section 103 of the Act is repealed and

section 123(a) of the Act is amended by striking out paragraph (3), thus eliminating the expenditure categories of the 1972 Act.

Elimination of Prohibition on Use of Funds for Matching

The House bill, the Senate amendment, and the Conference substitute provide in section 4, that section 104 of the Act is repealed and that section 143(a) of the Act is amended by striking out the words, "104(b) or," thus eliminating the prohibition on State and local governments against the use of revenue sharing funds to match Federal grants received under other programs.

AMOUNT OF FUNDING

House bill

The House bill provides for an annual basic entitlement of $6.65 billion and noncontiguous State adjustment of $4,780,000. The chart below summarizes the House funding level provision for each entitlement period.

[In millions of dollars]

Entitlement period	House bill		
	Basic	Noncontiguous [1]	Total [1]
(8) Jan. 1, 1977 to Sept. 30, 1977	4,987.5	3.59	4,991.09
(9) Oct. 1, 1977 to Sept. 30, 1978	6,650.0	4.78	6,654.78
(10) Oct. 1, 1978 to Sept. 30, 1979	6,650.0	4.78	6,654.78
(11) Oct. 1, 1979 to Sept. 30, 1980	6,650.0	4.78	6,654.78
Total	24,937.50	[1] 17.93	[1] 24,955.43

[1] Rounded to the nearest 10,000's.

Senate amendment

The Senate bill provides the same basic funding level as the House bill but includes a $200 million annual increment. The chart below summarizes the Senate funding level provision for each entitlement period.

[In thousands of dollars]

Entitlement period	Senate amendment		
	Basic	Noncontiguous [1]	Total [1]
(8) Jan. 1, 1977 to Sept. 30, 1977	4,987.5	3.59	4,991.09
(9) Oct. 1, 1977 to Sept. 30, 1978	6,850.0	4.92	6,854.92
(10) Oct. 1, 1978 to Sept. 30, 1979	7,050.0	5.07	7,055.07
(11) Oct. 1, 1979 to Sept. 30, 1980	7,250.0	5.21	7,255.21
(12) Oct. 1, 1980 to Sept. 30, 1981	7,450.0	5.36	7,455.36
(13) Oct. 1, 1981 to Sept. 30, 1982	7,650.0	5.50	7,655.50
Total	41,252.5	[1] 29.65	[1] 41,267.15

[1] Rounded to the nearest 10,000's.

Conference substitute

The conference substitute differs from both the House and Senate provision. The dollar amount of the entitlement was raised from $6.65 billion annually to $6.85 billion annually after October 1, 1977. The chart below summarizes the conference substitute.

[In thousands of dollars]

Entitlement period	Conference substitute		
	Basic	Noncontiguous[1]	Total[1]
(8) Jan. 1, 1977 to Sept. 30, 1977	4,987.5	3.59	4,991.09
(9) Oct. 1, 1977 to Sept. 30, 1978	6,850.0	4.92	6,854.92
(10) Oct. 1, 1978 to Sept. 30, 1979	6,850.0	4.92	6,854.92
(11) Oct. 1, 1979 to Sept. 30, 1980	6,850.0	4.92	6,854.92
Total	25,537.5	[1] 18.35	[1] 25,555.85

[1] Rounded to the nearest 10,000's.

Length of Renewal Period

House bill

The House bill extends the program for 3¾ years: January 1, 1977 through September 30, 1980. The three-quarter year segment synchronizes the program with the Federal government's new fiscal year, which begins on October 1 each year and terminates on September 30 of the following year.

Senate amendment

The Senate bill extends the program for 5¾ years: January 1, 1977 through September 30, 1982.

Conference substitute

The conference substitute is the same as the House bill.

Method of Payment

House bill

The House bill uses an entitlement procedure in lieu of the authorization-appropriation procedure followed in the 1972 Act. The Congressional Budget Impoundment Control Act of 1974 contains a provision permitting the enactment of spending authority by way of entitlement. Use of the entitlement procedure guarantees the provision of funds at the stipulated amounts for each of the entitlement periods.

Senate amendment

The Senate bill makes no change from the House entitlement provision.

Conference substitute

The conference substitute is the same as the House bill.

Sec. 5(b)1—Noncontiguous State Adjustment Amounts

House bill

Present law provides that noncontiguous States which benefit under the 3-factor formula for allocation of funds among States benefit from the noncontiguous-State adjustment. The adjustment provides that the States of Alaska and Hawaii will receive increased amounts which reflect differential cost-of-living adjustments available in other laws. The adjustments, however, may not exceed the amount of funding annually provided.

The House bill continues to apply the noncontiguous State adjustment to the 3-factor formula of present law, and provides that funds

of up to $4.78 million be made available for entitlements ($3.585 million for the period January 1, 1977-September 30, 1977).

Senate amendment

The Senate amendment applies the noncontiguous State adjustment to both the 3-factor and 5-factor formulas of present law and provides that the entitlement funding of up to $4.9 million be available in fiscal year 1978. The funding grows through the renewal period to $5.5 million in fiscal year 1982.

Conference substitute

The conference substitute applies the noncontiguous State adjustment to both the 3-factor and 5-factor formulas, and provides entitlement funding of up to $3.585 million for the 9-month period January 1, 1977-September 30, 1977, and $4.924 million for fiscal year 1978, 1979, and 1980.

State Maintenance of Effort

House bill

Present law requires that for any entitlement period beginning on or after July 1, 1973, a State government's revenue sharing payment will be reduced by the amount which the average of local transfers from its own sources for that period and the immediately preceding period is less than the similar total for the one year period beginning July 1, 1971. A two-year moving average is compared against the base year amount to measure compliance.

Present law allows adjustments in the base amount (one year beginning July 1, 1971) to reflect State assumption of new expenditure categories or the granting of new taxing powers to local governments. Special rules are also provided for the two entitlement periods beginning July 1, 1973, and July 1, 1976. The House bill requires that States maintain their intergovernmental transfers at fiscal year 1976 levels, or the most recent similar one-year period prior to 1976 for which data is available.

The Senate amendment provides that State governments must maintain a 2-year average of their intergovernmental transfers to localities. This average must equal or exceed the average of such transfers for the immediately preceding 2 years. In both instances the period of time to which the requirement applies is the State's fiscal period, and the information to be used is the most recent data which is available. It is expected that the Secretary of the Treasury will rely on the Bureau of the Census to collect such information on intergovernmental transfers and apply procedures which will identify transfers made by the State out of its own resources. Also, the amendment provides that where the Federal government assumes a local responsibility which was previously funded (in whole or in part) by the State, such transfers by the State are not to be included in the application of the maintenance of effort requirement. The amendment further provides for a special rule for the 9-month period January 1, 1977–September 30, 1977.

Conference substitute

The conference substitute adopts the Senate provision. It is understood that the provision for the situation in which the Federal Gov-

ernment assumes such a responsibility is not to be construed to be encouragement of such Federal action by the conference agreement.

Treatment of Waivers by Indian Tribes and Alaskan Native Villages

House bill

No provision.

Senate amendment

Under present law, waived entitlements of cities and townships go to the county government; waived entitlements of Indian tribes and Alaskan native villages to proportionately to county governments and all cities and townships. The Senate amendment provides that the waived entitlements of Indian tribes and Alaskan native villages are to go to county governments, as waived entitlements of cities and townships are now treated.

Conference substitute

The conference substitute follows the Senate amendment.

Separate Law Enforcement Officers in Louisiana

House bill

No provision.

Senate amendment

Under present law, the office of sheriff for each of the Louisiana parishes is not treated as a unit of local government eligible to receive revenue sharing funds. The Senate amendment provides that, except in the parish of Orleans, the office of sheriff is to be treated as a unit of local government eligible to receive revenue sharing funds. This office is to receive 15 percent of what would otherwise be the entitlement of the parish government. The entitlements of the parish government and the State government each are to be reduced by half the amount going to the sheriff.

Currency of Data

House bill

No provision.

Senate amendment

Under present law, the data to be used must be the most recently available, and where such data provided by the Bureau of the Census are not current enough or not comprehensive enough to provide equitable allocations, the Secretary may use additional data, including data based on estimates as provided by regulations. Present law also provides, except as provided otherwise by regulations, that computations of allocation for an entitlement period be made 3 months prior to the beginning of the entitlement period.

The Senate amendment provides that the Secretary must use tax data which relates to the period ending before the entitlement period in question. Thus, the Secretary must use tax data throughout an entitlement period without introducing new data (e.g., for a more recent period) until the beginning of the next entitlement period.

Conference substitute

The conference substitute adopts the Senate provision.

LIMITATION ON ADJUSTMENT OF PAYMENTS

House bill

No provision.

Senate amendment

Present law provides that the Secretary may make payments on the basis of estimates. Proper adjustment is to be made if governments are under or overpaid.

The Senate amendment prohibits the Secretary of the Treasury from decreasing a payment previously made to a recipient government, unless the Secretary makes a demand for such payment within a year after the close of any entitlement period beginning on or after January 1, 1972.

Also the amendment prohibits increasing a payment unless the recipient government makes a demand for such increase within a year after the close of any entitlement period beginning on or after January 1, 1977.

Conference substitute

The conference substitute modifies the Senate provision so that increases or decreases, demanded by the Secretary or recipient within one year after entitlement periods beginning January 1, 1977, be funded out of the State reserve fund provided for in the conference substitute (described below). Deficiency amounts in dispute for the period January 1, 1972—December 30, 1976 are to be recaptured through the adjustment reserve fund. It is understood that the conference substitute does not preclude the closing of the data for an entitlement period by administrative action and does not require the Secretary to make adjustments to entitlements on the basis of data more current than otherwise required under the currency of data provision in the conference substitute (described above).

RESERVES FOR ADJUSTMENTS

House bill

No provisions.

Senate amendment

Under present law, the Secretary must make at least quarterly payments to recipient governments, and may adjust amounts to recipients resulting from over and underpayments and has set aside a national reserve fund for such purposes. Under the Senate amendment, the Secretary may reserve up to 0.5 percent of each State area's entitlement to pay adjustment amounts in each entitlement period.

Conference substitute

The conference substitute adopts the Senate amendment.

PUBLIC PARTICIPATION PROVISIONS

REPORT ON USE OF FUNDS

House bill

Present law requires that reports on planned and actual uses of revenue sharing funds be published in a newspaper of general circula-

tion before and after each entitlement period. The reports are also provided to the Secretary of the Treasury.

Section 8 of the House bill requires a recipient government to report to its constituents on the proposed uses of funds received under this Act and also expands the content of the report required under the present law on the actual uses of funds.

The proposed use (designated "planned use" in the 1972 Act) provisions requires State and local governments which expect to receive funds under this Act to submit proposed use reports to the Secretary of the Treasury (who, in turn, is responsible for providing such reports to the respective Governors) for entitlement periods beginning on or after January 1, 1977. Such governments are required to report on how they expect to spend their entitlements, to provide comparative data on the use of such funds during the two immediately preceding entitlement periods, and information on how past, current. and the proposed use of the funds relate to relevant functional items in the recipient government's budget. It requires further that the report also indicate whether the proposed use is for a new activity. to expand or continue an existing activity, or for tax stabilization or reduction purposes. The Secretary is to prescribe the form and detail of the report in addition to the time when it is to be filed.

The bill provides that each report on the use of funds, which must be submitted to the Secretary of the Treasury (who. in turn. would be responsible for providing such reports to the respective governors) as well as published locally and made available to the public for inspection and reproduction, is to include the following information: how the State or local unit of government's entitlement was spent or obligated; the relationship of these funds to the relevant functional items in the recipient government's budget: and an explanation of differences between the proposed use of funds and how the funds were actually spent during the entitlement period.

Senate amendment

Section 7 of the Senate bill requires each recipient government to prepare a planned use report showing a summary of the entire budget for such government's previous. current and coming fiscal periods. It also requires for each fiscal period a statement of the amount of funds made available under this Act. in addition to other sources of funds, and of total expenditures.

The Senate bill does not provide for a separate report on the use of funds.

Committee substitute

The committee substitute requires a report on the use of funds by each State and local government which receives funds under this Act. That report, which is to be submitted to the Secretary at the close of the recipient government's fiscal period and which is to be available to the public for inspection, must show the amounts and purposes for which the funds have been appropriated, spent or obligated and the relationship of those funds to the relevant functional items in the government's budget. In addition, this report must identify the differences between the actual and proposed use of such funds. The Secretary is authorized to prescribe the form and detail of the report, as well as the time when the report is to be filed.

The Secretary is required to furnish copies of reports on the use of funds submitted by units of local government to the governors of the respective States in which such governments are located. It is expected that this requirement could be satisfied by transmittals of fascimile copies (e.g. a photocopy or photoreduction such as microfiche) or in machine readable form. The manner in which they would be provided would be agreed upon by the Secretary and the Governor.

PUBLICATION

House bill

President law requires that reports on planned and actual uses of revenue sharing funds be published in a newspaper of general circulation before and after each entitlement period. The reports are also provided to the Secretary of the Treasury.

The House bill requires publication in a general circulation newspaper the proposed use report together with a narrative summary explaining the entire proposed budget and notice of the time and place for a hearing on the budget 30 days before the pre-budget hearing is to be held. The budget document and the published report and narrative summary is to be available for public inspection and reproduction at the principal governmental office and in public libraries. In addition, the proposed use report is to be submitted to the metropolitan area planning organization if the local government is located within a metropolitan area.

After adoption of the budget, each recipient State and local unit of government is required to publish (in a general circulation newspaper) a narrative summary of the budget explaining changes made from the proposed budget and the relation of funds received under this Act to items in the budget. In addition, the budget summary is to be made available for public inspection and reproduction at the principal office of the government and the public libraries.

The Secretary is authorized to waive publication requirements if their cost would be unreasonably burdensome in relation to entitlements received under this Act, or if such publication would be impractical or infeasible.

Senate amendment

The Senate amendment would require publication of the planned use report in a newspaper of general circulation prior to the required hearing for each recipient government. This publication is also to provide notice of the time and place of the public hearing. Publication is not required if its cost exceeds 15 percent of the government entitlement or if such publication were impractical.

Conference substitute

The conference substitute requires each State and local government which expends funds received under this Act in any fiscal period on or after January 1, 1977, to take the following actions:

A. at least 10 days prior to the budget hearing—

1. publish in at least one newspaper of general circulation, the proposed uses of such funds together with a summary of its proposed budget and a notice of the time and place of the budget hearing; and

2. make available for inspection by the public at the principal office of the State or local government the proposed use of funds, together with a summary of its proposed budget; and

B. within 30 days after adoption of its budget as provided for under State or local law—

1. make a summary of the adopted budget, including the proposed use of funds made available under this Act, available for inspection by the public at the principal office of such State or local government; and

2. publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to immediately above.

The requirements specified in the Act for making available certain information for inspection by the public at the principal office of the State and local governments are intended to be the minimum requirements. It is expected that the documents referred to would normally be made available at other public places, including public libraries, for the convenience of the public.

The committee substitute authorizes the Secretary to waive, in whole or in part, the requirements with respect to the publication of the proposed use of funds and the summaries where the cost of such publication would be unreasonably burdensome in relation to a government's entitlement, or where such publication is otherwise impractical or infeasible.

In addition, the 10 day requirement of the newspaper publication requirement can be waived by the Secretary if applicable State or local law, which requires publication of a budget summary or a newspaper of general circulation, will provide adequate notice to the citizens. Were such a law to require such a publication 7 days prior to the public hearing, it is contemplated that adequate notice would be available. A publication in an evening newspaper the evening of the hearing would not, however, be interpreted to provide adequate notice. It is understood there are some local governments receiving funds which are not served by a newspaper of general circulation. Also, it is contemplated that the Secretary will provide through regulation for situations in which localities consolidate the newspaper publication in a joint publication if such publication clearly identifies each unit's proposed uses and budget summary.

It is contemplated in providing this waiver authority that alternative publication methods, such as making the notice a part of water bills sent out generally, would be acceptable, and that the regulations of the Secretary provide for such alternative publication methods when publication is impractical. With respect to the test of unreasonably burdensome cost for waiver of the publication requirement, it is contemplated that were costs of publication to exceed 15 percent of a recipient's entitlement, the publication costs could be deemed to be unreasonably burdensome.

PUBLIC HEARINGS

House bill

Recipient governments are generally required to expend revenue sharing funds in the same manner as they expend their own funds.

If State or local law requires a public hearing on a recipient's budget, a hearing on the expenditure of revenue sharing is also required.

The bill provides that a pre-report hearing be held, after adequate notice and at least 7 days before submitting a proposed use report to the Secretary, to afford citizens, including specifically senior citizens, an opportunity to provide oral and written comment on the possible uses of entitlements to be received under this Act.

A pre-budget hearing is to be held at least 7 days before the recipient's government budget is adopted. This hearing is to deal with the proposed use of funds received under the Act in relation to the government's entire budget. At this hearing, citizens, including specifically senior citizens, are to have an opportunity to provide written and oral comment and to have their questions answered. The bill requires that the hearing be held at a time and place that will encourage public participation and be held before the body responsible for enacting the budget.

The House bill authorizes the Secretary to waive a pre-report hearing if the cost would be unreasonably burdensome in relation to the amount of entitlement, and to waive the pre-budget hearing if the budget processes required under applicable State or local laws or charter provisions assure an opportunity for public participation, including a hearing on the proposed use of revenue sharing funds.

Senate amendment

Senate amendment provides that each State and local government which receives funds under this Act hold a public hearing on its proposed budget at least 7 days before its adoption. Such hearing is to be held at a time and place convenient for general public attendance and citizens are to have the opportunity to provide written and oral comment to the body responsible for enacting the budget concerning the use of these funds. Each recipient government is to be permitted to waive the public hearing requirement if it certifies that it will hold a public hearing at which citizens may give written and oral comment upon adequate notice. The election must describe the hearing and reporting process as it relates to its own revenues and expenditures.

Conference substitute

The conference substitute provides for both a hearing on the proposed use of funds received under this Act and a budget hearing.

The hearing on the proposed use of funds is to be held, after adequate public notice, not less than 7 calendar days before the budget of a recipient government is presented to the governmental body responsible for enacting the budget. At this hearing, citizens must have the opportunity to provide written and oral comment on the possible uses of funds. It is contemplated that this first hearing would be held after adequate notice before the executive branch prior to its finalization of a budget to be submitted to a legislative body.

The budget hearing is intended to afford citizens the opportunity to provide written and oral comment (to the body responsible for enacting the budget) on the proposed use of funds received under this Act in relation to the government's entire budget. At such hearing, citizens are to be given an opportunity to ask questions concerning the

entire budget and the relationship of funds received under this Act to that budget. It is intended that meaningful efforts be made to permit maximum citizen participation in the budget hearing and that those officials responsible for holding the hearing will make every effort to respond to questions raised. The hearing is to be held at a place and time that permits and encourages public attendance and participation.

The hearing on the proposed use of funds may be waived in whole or in part if the cost of such a requirement would be unreasonably burdensome in relation to funds received under this Act by any State government or unit of local government. For example, were the costs of such hearing to exceed 15 percent of the revenue sharing entitlement, the requirement could be waived. The second public hearing may be waived in whole or in part by the Secretary if the budget process, under generally applicable state or local law which governs the expenditure of a recipient's own funds, permits citizens to give written and oral comment on the proposed uses of revenue sharing funds when a hearing is held on the recipient's budget. Similarly, if state or local law requires the publication of a summary of a recipient's budget, the Secretary may waive the publication of the proposed uses of revenue sharing funds if the publication were to provide adequately for notification of the proposed uses of revenue sharing funds as contemplated by the general requirement.

The requirement for the budget hearing may be waived in whole or in part if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds received under this Act in relation to the government's entire budget.

In addition to this waiver authority, the Secretary is required to promulgate regulations to deal with situations in which a recipient government does not formally enact or adopt a single budget, as is generally contemplated in the general public hearing requirements. Such regulations are to provide that information will be provided to the public and public hearings will be held at such point in the development of budget acts, appropriations, authorizing legislation, etc., as to permit and encourage the type of public participation in the authorization on expenditure process intended by this section. For example, where a State legislature does not adopt a single omnibus appropriation act, public hearings before the appropriations committees of the two Houses prior to their actions on the executive proposed budget, are to constitute hearing consistent with the intention of the requirements.

Nondiscrimination Section

TYPE OF DISCRIMINATION PROHIBITED

House bill

The House bill broadens the present nondiscrimination provision by adding further prohibitions against discrimination on the basis of age, handicapped status, and religion. It directs that the prohibition

against discrimination on account of race, color, religion, sex, or national origin be interpreted in accordance with Title II, III, IV, VI, and VII of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Title IX of the Education Amendments Act of 1972.

Senate amendment

The Senate amendment is substantially the same as the House bill except for (1) some clarifying language with respect to the application of the Civil Rights Acts in interpreting the prohibition against religious discrimination and (2) the prohibition aganst dscrimination on account of age will not take effect until the effective date of the Age Discrimination Act of 1975.

Conference substitute

The conference substitute is the same as the Senate bill except that:

1. The prohibition against discrimination on account of handicapped status is not to apply to construction projects commenced prior to January 1, 1977.

2. The provision pertaining to discrimination on the ground of handicapped status shall refer to discrimination with respect to "an otherwise qualified handicapped individual."

APPLICATION OF PROHIBITIONS

House bill

The prohibitions are applied to all the programs and activities of a government except those programs and activities which the government proves, by clear and convincing evidence, are not funded in whole or in part, directly or indirectly, with revenue sharing funds.

Senate amendment

The prohibitions are applied to those programs and activities of a government which are (1) designated as being funded, in whole or in part, with revenue sharing funds, or (2) under all the facts and circumstances, demonstrated to be funded, in whole or in part, with revenue sharing funds.

Conference substitute

The conference substitute adopts the House provision with the deletion of the words "directly or indirectly". 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.

AUTHORITY OF THE SECRETARY AND PROCEDURE IN WITHHOLDING FUNDS

House bill

The central feature is a trigger mechanism which determines when the Secretary will begin compliance proceedings by sending appropriate notices to the noncomplying recipients. Such notification will be triggered under two circumstances:

1. When a Federal or State court or administrative agency, after notice and opportunity for the recipient to be heard, makes a finding

of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status; and

2. When the Secretary, after affording the recipient an opportunity to make a documentary submission, makes an initial determination of noncompliance based on his own investigation.

After the notification, the recipient has 90 days to end the discrimination and take whatever affirmative steps are necessary to conform its practices to the law. The recipient may request a hearing on the merits which the Secretary is required to initiate within 30 days of the request. At that hearing the recipient may raise any defense available under the law, including the contention that the shared revenues were not used in the program or activity in which the alleged discrimination occurred.

In advance of the hearing on the merits, the recipient may also request a preliminary hearing before an administrative law judge when the notification to the recipient is based on the Secretary's initial determination of noncompliance. Such a preliminary hearing must be requested within 30 days of the notification of noncompliance and must be completed within the 90-day period. If the recipient demonstrates that it is likely to prevail on the merits at a subsequent full hearing, the administrative judge is authorized to order a deferral of a fund suspension which would otherwise automatically occur at the conclusion of the 90 days if compliance is not achieved.

At the end of the 90 days, the payment of shared revenues is automatically suspended if a compliance agreement has not been signed, or if compliance itself has not been achieved, or if an administrative law judge has not entered an appropriate order. The suspension of funds applies only to a local government which is the subject of the notification from the Secretary. The payment of funds to other governments in the state or the state itself remains unaffected. The suspension then remains in effect for a period of 120 days, or 30 days after the conclusion of a hearing on the merits, whichever is later. During this period of suspension, the Secretary is obligated to make a final determination of compliance or noncompliance. If insufficient evidence of noncompliance is presented to the Secretary, then the suspended payments and all future payments are paid to the recipient. If noncompliance is found, the funds are terminated and the Attorney General is notified. The recipient government could, of course, seek resumption of payments when it achieved compliance with the Act.

Senate amendment

A central feature of the Senate amendment regarding procedure is a trigger mechanism which determines when the Secretary will begin compliance proceedings. His notification to the recipient is triggered under similar circumstances to that of the House bill, with a distinction being made, however, between federal administrative agency findings and state administrative agency findings.

After the notification, the recipient has 60 days within which to present its side of the case to the Secretary. After such time, the Secretary is required to make a determination as to whether the recipient has violated the nondiscrimination provision. Within the next 60 days following the Secretary's determination that the nondiscrimination

provision has been violated, a compliance negotiation period ensues in which a compliance agreement may be executed between the recipient and the Office of Revenue Sharing. If within this 60 day period a compliance agreement is not executed, the recipient would have ten days in which to request a hearing before an administrative law judge. The hearing must commence within 30 days of the request. Within 60 days of the commencement of the hearing, the Administrative Law Judge would be required to make a preliminary finding as to whether the recipient would not prevail on the merits. Such a determination would result in a suspension of funds, pending the outcome of the hearing. At the conclusion of the hearing, the Administrative Law Judge would make a final determination as to whether the recipient has violated the nondiscrimination provision. A finding to this effect would result in an indefinite suspension of funds within 30 days of the determination, unless within that time period a compliance agreement is entered into.

Conference substitute

The conference substitute essentially adopts the Senate procedure with a reduction in some of the time periods. It also provides the administrative law judge with discretion to terminate funds. The conferees adopted the following procedure.

The initial formal step of the procedure involves the Secretary's sending of noncompliance notice to a revenue sharing recipient. This notice will be triggered by and must be sent within 10 days of:

(1) actual receipt by the Secretary of a holding by a Federal or State court or by a Federal administrative law judge of discrimination on the grounds of either race, color, national origin, sex, age, handicapped status, or religion in any of the State's or local unit's activities or programs. A Federal administrative law judge's holding must have been preceded by a notice and opportunity for a hearing and it must be rendered pursuant to the provisions of the Administrative Procedures Act; or

(2) a finding by the Secretary, as a result of an investigation, that it is more likely than not that the recipient has failed to comply with the nondiscrimination provision. This finding will be made with respect to any complaint, information, or holding from any source other than the holding of a court or Federal administrative law judge. If after the Secretary receives a complaint, information (including information generated within the Office of Revenue Sharing), or a holding by a State or local administrative agency pertaining to discrimination on the grounds of either race, color, national origin, sex, age, handicapped status, or religion, he finds that it is more likely than not that the recipient has failed to comply with the nondiscrimination provision, he will send a noncompliance notice to the recipient.

In the 30 days following notification by the Secretary, the recipient will have the opportunity to informally presents its evidence and contentions to the Secretary. In those instances where the notice was triggered by a holding of discrimination by a court or Federal administrative law judge, the question of discrimination will be considered resolved against the recipient so long as the Secretary's notice was restricted to the particular holding of the court or Federal administra-

tive law judge. The only issue in this instance would be whether the particular program or activity was funded with revenue sharing funds.

In those instances where the notice was triggered by a complaint, information or State or local administrative agency finding, both the issues of discrimination and funding would be subject to discussion during this 30-day period.

By the end of the initial 30-day period following notification, the Secretary must issue a determination as to whether the recipient has failed to comply with the nondiscrimination provision.

The recipient has 10 days from the date of the Secretary's adverse determination to request a full hearing before an administrative law judge. This hearing must commence within 30 days after the request. Within this 40-day period, before the hearing begins, the recipient may enter into a voluntary compliance agreement.

In those instances where the notice was triggered by a holding of a Federal or State court or by a Federal administrative law judge, a compliance-type agreement entered into between the recipient and the Federal administrative agency involved, or with the authorities (including the Attorney General) which brought the action in the Federal or State court, would constitute a compliance agreement for purposes of these provisions. The Secretary, however, will have the discretion to reject the agreement involved if he determines that it does not adequately remedy the discrimination involved.

In those instances where the compliance agreement is between the Secretary and a State government, the necessary signators will be the Secretary and the Governor of the affected State. In those instances where the compliance agreement is between a locality and the Secretary, the necessary signators will be the Secretary and the chief executive officer of the locality.

If the recipient fails to request a hearing within 10 days of the Secretary's determination, the Secretary will be required to immediately suspend payment of revenue sharing funds to the recipient.

Within 30 days of the request for a hearing, a Federal administrative law judge must commence a hearing. If a finding of discrimination has already been made by a court or a Federal administrative law judge, the hearing would only pertain to whether the program or activity involved received revenue sharing funds. Within 30 days of commencement of the hearing, the administrative law judge will be required to make a preliminary finding on the record of evidence then before him as to whether it is likely that the recipient would not prevail on the issues to which the hearing pertained. Within this 30-day period, something akin to a summary hearing would be held, where both parties, through affidavits and other evidence, would present their sides of the case.

A preliminary finding by the administrative law judge in favor of the Secretary within the 30-day period following the commencement of the hearing will result in the immediate suspension of any further payments of revenue sharing funds to the recipient pending the outcome of the full hearing, unless a compliance agreement has been entered into. At the conclusion of the hearing, the administrative law judge will make a finding based upon the complete record of evidence. If the Secretary prevails upon the issues, an indefinite suspension of the payment of funds will occur within 30 days after the

rendering of the finding by the administrative law judge, unless within that 30-day period a compliance agreement is entered into.

In lieu of the suspension of funds, the administrative law judge has the discretion to order the termination of the payment of funds made available under subtitle A. The administrative law judge's determination is subject to the applicable appellate procedures.

Payment of suspended funds is to be resumed in the following instances: (1) when a compliance agreement is entered into or the Secretary determines that the recipient has complied with certain provisions of a compliance agreement, such determination being a condition precedent to the resumption of payments; (2) after a hearing before an administrative law judge, where a preliminary suspension of funds has occurred, the administrative law judge holds that the recipient is in compliance with the nondiscrimination provision; (3) the recipient complies fully with the order of a court or Federal administrative law judge if that order covers all the matters raised by the secretary in his notice of noncompliance; (4) upon a rehearing or similar proceeding, the court or administrative law judge which originally held that the recipient had discriminated on the grounds of either race, color, national origin, sex, age, handicapped status, or religion, holds that the recipient did not so discriminate; or (5) an appellate court reverses the findings of discrimination by a lower court or administrative law judge, such initial findings having triggered the notice of noncompliance and ultimately the suspension of funds by the Secretary.

Authority of an Attorney General

The House bill, the Senate amendment, and the Conference substitute are all the same.

The Attorney General's authority is expanded so that whenever he believes that a State government or unit of local government has engaged in a pattern or practice of discriminatory actions in violation of the nondiscrimination provision, he may bring a civil action seeking as relief any temporary restraining order, preliminary or permanent injunction, or other order calling for, among other things, the suspension, termination, repayment, or placing of revenue sharing funds in escrow pending the outcome of the litigation.

Agreements Between Agencies

House bill

The House bill provides that the Secretary is to enter into agreements with State agencies and with other Federal agencies authorizing these agencies to investigate allegations of noncompliance with the nondiscrimination provision. Each agreement is to describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance and will provide for immediate notification to the Secretary of any actions instituted against a State government or unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.

Senate amendment

The Senate amendment is substantially the same as the House bill except that it provides that the Secretary is to "endeavor" to enter

into agreements, as opposed to mandating the Secretary to enter into agreements.

Conference substitute

The conferees adopted the Senate provision. It is contemplated that the Secretary will make vigorous efforts to enter into these cooperative agreements.

CITIZEN REMEDIES

House bill

The House bill provides that upon exhaustion of administrative remedies, a civil action may be instituted by an aggrieved person in an appropriate United States District Court or State Court. This action, alleging any violation of the provisions of this Act by a State government or a unit of local government, could seek such relief as a temporary restraining order, preliminary or permanent injunction, or other order providing of the suspension, termination, repayment of funds, or placing any further payments of revenue sharing funds in escrow pending the outcome of the litigation.

Senate amendment

The Senate amendment is the same as the House bill except that it limits private citizen suits to actions alleging a violation of the non-discrimination provision of the Act.

Conference substitute

The Conference substitute adopts the House provision.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

House bill

In the House bill, administrative remedies will be considered "exhausted" upon the expiration of the 60-day period following the date an administrative complaint is filed with the Office of Revenue Sharing or any other administrative enforcement agency, unless within this time period the agency involved makes a determination on the merits of the complaint, in which case the administrative remedies will not be considered exhausted until the determination becomes final.

Senate amendment

In the Senate amendment, administrative remedies will be considered "exhausted" upon:

(a) the expiration of the 60-day period following the date the complaint is filed with the Office of Revenue Sharing, during which time it either (i) fails to issue a determination on the merits of the complaint, (ii) issues a determination that the recipient did not violate the nondiscrimination provision, or (iii) refers the complaint to the Department of Justice, and

(b) the expiration of the subsequent 60-day period where the complaint is filed with or referred to the Department of Justice, during which time it either (i) fails to issue a determination on the merits of the complaint or, (ii) issues a determination that the recipient did not violate the non-discrimination provision.

Conference substitute

Under the conference agreement, administrative remedies will be considered "exhausted" upon expiration of the 90-day period following

the date an administrative complaint is filed with the Office of Revenue Sharing or any other administrative enforcement agency which has entered into a cooperative agreement with the Office of Revenue Sharing, if within this time period the Office of Revenue Sharing or other administrative enforcement agency (1) fails to issue a determination on the merits of the complaint or (2) issues a determination that the recipient did not violate the non-discrimination provision. It is contemplated that the other administrative agencies to which this provision applies will, pursuant to the cooperative agreement with the Office of Revenue Sharing, provide the Office of Revenue Sharing with notice of the complaint filed with that agency.

REGULATIONS

House bill

The Secretary is directed to promulgate regulations by March 31, 1977, which set forth reasonable and specific time limits for response by the Secretary or the appropriate cooperating agency to a complaint by any person alleging a violation of the provisions of the Act by a State Government or unit of local government. Moreover, the regulations are to establish reasonable and specific time limits for the Secretary to conduct independent audits and review of State governments and units of local government regarding compliance with the provisions of the Act.

Senate amendment

Senate amendment has no comparable provision.

Conference substitute

The conference adopts essentially the House provision, providing that the reasonable and specific time limit for the Secretary to conduct investigations and make findings in response to citizen complaints, State and local administrative agency findings, or other information is not to exceed 90 days. The conferees do not intend a violation of this provision to in any way relate to the validity of a notice sent by the Secretary under section 122(b).

ATTORNEYS FEES

House bill

No provisions.

Senate amendment

The Senate provides that in private citizen actions to enforce the nondiscrimination provision, the court, in its discretion, may allow reasonable attorney fees to the prevailing party (other than the United States).

Conference substitute

The Conference substitute adopts the Senate provision.

ACCOUNTING AND AUDITING PROVISIONS

House bill

Recipient governments, under existing law, are required to use fiscal accounting and audit procedures in conformity with guidelines

developed by the Secretary of the Treasury, after consultation with the Comptroller General. A recipient government also is required to grant access to its books and documents to the Secretary and the Comptroller General for the purpose of monitoring compliance. The House bill requires each recipient to conduct an annual independent financial audit in accordance with generally accepted auditing standards. The Secretary, after consultation with the Comptroller General, is directed to promulgate regulations including such requirements as may be necessary to assure that independent audits are conducted in accordance with generally accepted audit standards. The Secretary may provide for less formal reviews of financial information or less frequent audits to the extent necessary to ensure that the cost of such audits will not be unreasonably burdensome in relation to the payments made to recipient units of government. The Comptroller General is required to review the efforts of the Secretary and recipient governments for the purpose of enabling Congressional evaluation of compliance and operations with respect to these auditing and accounting requirements.

Senate amendment

The Senate amendment generally requires an independent financial and compliance audit for recipient governments. Governments receiving less than $25,000 in revenue sharing entitlements for any fiscal period are exempt from this requirement. An exception is also provided where a recipient government's financial statements are audited pursuant to generally applicable State or local audit requirements. If a recipient government is unauditable, under either the general audit requirement or under State or local audit requirements, the Secretary may waive the audit requirement if the recipient government demonstrates that it is making progress toward making its financial accounts auditable. Under the general audit and accounting requirement, an independent financial and compliance audit of a recipient government's financial statements, according to generally accepted auditing standards and generally accepted accounting principles, is required at least every three years. A series of audits which aggregate the entire financial activity of the recipient government and which are performed over not more than three fiscal years would meet this requirement. The amendment also provides that other Federally-required independent audits in accordance with generally accepted auditing standards shall be accepted as satisfactory by the Secretary. Where a recipient government's financial statements are subject to an independent audit under State or local law, the recipient must certify that such audits will be conducted in accordance with generally accepted auditing standards. It also must include a brief description of the auditing standards to be applied.

Any opinion rendered with respect to the required audits are to be provided to the Secretary pursuant to regulations setting forth the form and time for such submissions.

Conference agreement

The conference agreement generally follows the Senate amendment. However, the conference agreement requires that a recipient government which is found to be unauditable by the Secretary must demon-

strate in accordance with regulations, that it is making substantial progress toward becoming auditable. In addition, the conference agreement adopts the provision of the House bill under which the Comptroller General is directed to review the efforts of the Secretary and recipient governments for the purpose of enabling Congressional evaluation of compliance and operations with respect to these auditing and accounting requirements.

Eligibility Requirements

House bill

Under present law, to receive revenue sharing funds a recipient government must be a State government or a unit of local government as defined by the Bureau of the Census for general statistical purposes. The House bill provides, in addition to the requirement of current law that a unit of local government meet the Bureau of the Census definition, it must also perform certain functions to continue to receive revenue sharing payments. A unit of local government must impose taxes or receive intergovernmental transfers for substantial performance of two of fourteen enumerated categories: (1) police protection, (2) courts and corrections, (3) fire protection, (4) health services, (5) social services for the poor or aged, (6) public recreation, (7) public libraries, (8) zoning or land use planning, (9) sewage disposal or water supply, (10) solid waste disposal, (11) pollution abatement, (12 road or street construction, (13) mass transportation, and (14) education. In addition, at least 10% of the local government's expenditures must be within each of two of these fourteen service categories. This requirement would not apply where the locality substantially performs four or more of these enumerated services. Finally, the House bill eliminates the reference in current law to "other units of local government."

Senate amendment

The Senate amendment makes no substantive change in the definition of "units of local government." The Senate amendment eliminates the reference to "other units of local government."

Conference agreement

The conference agreement follows the Senate amendment.

Study of Revenue Sharing and Federalism

House bill

No provision.

Senate amendment

The Senate amendment provides that the Advisory Commission on Intergovernmental Relations (ACIR) shall conduct a 3-year study and evaluation of 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) the following specific areas: (1) the allocation and coordination of taxing and spending authorities among levels of government; (2) State and local governmental organizations; (3) effectiveness of Federal stabilization policies on State and local governments and impact of State and local fiscal decisions on aggregate economic activity; (4) quality of financial

control and audit procedures in Federal, State, and local governments; (5) citizen participation in Federal, State, and local government fiscal decisions; (6) the specific relationship of revenue sharing to other Federal grant-in-aid programs and its role in Federal, State, and local fiscal interrelationships; (7) forces likely to affect the nature of American federalism in long and short run; (8) the processes whereby State and local governments designate Federal revenue sharing funds among projects, as well as the role of revenue sharing in long-term planning in State and local governments. A final report (along with any recommendations for legislation) is to be submitted to the President and Congress at the end of the study. Appropriations are authorized as may be necessary, beginning with fiscal year 1978.

Conference substitute

The Conference substitute deletes from the scope of the study the subject areas identified in items (4), (6) and (8) of the Senate amendment. In addition, the Conference deleted provisions: (a) authorizing and directing Federal departments and agencies to furnish requested information, since a similar provision is already contained in P.L. 86–380, the statute under which ACIR was established, and (b) directing the Administrator of General Services to provide administrative support services to the Commission on a reimbursable basis: this provision was found to be unnecessary because ACIR itself possesses adequate support services for the purposes of this section. The Conference also changes the time limit for a final report from 3 years after the appointment of Commission members to 3 years after an initial appropriation is made for the study; this change was made because ACIR, as an existing, continuing body, would not require the appointment of members for the purposes of this section.

PROHIBITION OF USE FOR LOBBYING PURPOSES

House bill

The House bill provides that no state and local government recipient is to use, directly or indirectly, any part of its allocation of funds received under this Act for lobbying activities which are for the purpose of influencing legislation relating to the provisions of this Act. Dues paid to National or State associations are not deemed to have been paid from funds received under subtitle A.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute eliminates the words "directly or indirectly" from the House provision.

SUBURBAN IMPROVEMENT DISTRICTS IN ARKANSAS

House bill

No provision.

Senate amendment

Under present law, the Arkansas suburban improvement districts are not regarded as units of local government entitled to receive

revenue sharing funds. The Senate amendment provides that such a district is to be entitled to receive reevnue sharing funds if they perform at least 2 of 14 enumerated categories of governmental functions and at least 10 percent of the district's total budget is for each of 2 categories of governmental functions.

Conference substitute

The conference substitute omits the provision.

Frequency of Payment

House bill

No provision.

Senate amendment

Current law provides for quarterly payments, within five days after the close of each quarter.

The Senate bill amends this provision to require that governments receiving less than $4,000 annually be paid on an annual basis receiving their full year's payment within five days after the close of the first quarter.

Conference substitute

The conference substitute drops the Senate amendment.

Optional Formula

House bill

Under present law, a State may use a variation of the within-State formula for allocating revenue sharing funds if it passes a law to that effect and notifies the Secretary of the Treasury. Any such formula, once enacted, remains in effect until December 31, 1976. The House bill provides that any such formula is to remain in effect until September 30, 1980.

Senate amendment

The Senate amendment provides that any such formula is to remain in effect until September 30, 1982; it also forbids Louisiana from enacting any such formula change.

Conference substitute

The conference substitute follows the House bill.

Suburban Improvement Districts in Arkansas

House bill

No provision.

Senate amendment

Under present law, the Arkansas suburban improvement districts are not regarded as units of local government entitled to receive revenue sharing funds. The Senate amendment provides that such a district is to be entitled to receive revenue sharing funds if they perform at least 2 of 14 enumerated categories of governmental functions and at least 10 percent of the district's total budget is for each of 2 categories of governmental functions.

Conference substitute

The conference substitute omits the provision.

ECONOMIC AND TECHNICAL ASSISTANCE

House bill

No provision.

Senate amendment

Under the Senate amendment, the Director of the Office of Revenue Sharing is directed to provide upon request. economic and technical assistance necessary to encourage, develop, and implement long-range planning. Present law and the House bill do not contain a similar provision.

Conference substitute

The conference substitute deletes the Senate amendment.

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