GENERAL REVENUE SHARING

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

H.R. 13367

AN ACT TO EXTEND THE STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972, AND FOR OTHER PURPOSES

AUGUST 25, 1976

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

76-611 O WASHINGTON : 1976

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price $2.45

COMMITTEE ON FINANCE

RUSSELL B. LONG, Louisiana, *Chairman*

HERMAN E. TALMADGE, Georgia
VANCE HARTKE, Indiana
ABRAHAM RIBICOFF, Connecticut
HARRY F. BYRD, JR., Virginia
GAYLORD NELSON, Wisconsin
WALTER F. MONDALE, Minnesota
MIKE GRAVEL, Alaska
LLOYD BENTSEN, Texas
WILLIAM D. HATHAWAY, Maine
FLOYD K. HASKELL, Colorado

CARL T. CURTIS, Nebraska
PAUL J. FANNIN, Arizona
CLIFFORD P. HANSEN, Wyoming
ROBERT DOLE, Kansas
BOB PACKWOOD, Oregon
WILLIAM V. ROTH, JR., Delaware
BILL BROCK, Tennessee

MICHAEL STERN, *Staff Director*
DONALD V. MOOREHEAD, *Chief Minority Counsel*

CONTENTS

COMMUNICATIONS

ADDITIONAL INFORMATION

APPENDIXES

WEDNESDAY, AUGUST 25, 1976

GENERAL REVENUE SHARING

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m. in room 2221, Dirksen Senate Office Building, Hon. William D. Hathaway presiding.

Present: Senators Long, Byrd, Jr., of Virginia, Nelson, Gravel, Hathaway, Packwood, Roth, Jr., and Brock.

Senator HATHAWAY [presiding]. The committee will come to order.

As you know, the General Revenue Sharing program will expire on December 31 of this year. H.R. 13367 to continue the program for an additional 3¾ years has been approved by the House of Representatives.

The Committee on Finance is holding a hearing on this measure this morning to facilitate its consideration and action on the bill.

The subcommittee of the committee held hearings last year on April 16 and 17, May 21 and 22, which gives us a considerable amount of background for the prospective bill already.

[The press release announcing this hearing and the text of the bill follow:]

FINANCE COMMITTEE SCHEDULES HEARING ON GENERAL REVENUE SHARING BILL

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, announced today that the Committee would hold hearings on H.R. 13367, a bill to extend the State and Local Fiscal Assistance Act of 1972 (general revenue sharing). The hearings wil be held on Wednesday, August 25, beginning at 10:00 a.m., in Room 2221, Dirksen Senate Office Building.

Requests to Testify.—The Chairman advised that witnesses desiring to testify during this hearing must submit their requests in writing to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Office Building, Washington, D.C. 20510, not later than Wednesday, August 18, 1976. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. If for some reason the witness is unable to appear, he may file a written statement for the record of the hearing in lieu of a personal appearance.

Consolidated Testimony.—Senator Long also stated that the Committee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Committee. This procedure will enable the Committee to receive a wider expression of views than it might otherwise obtain. The Chairman urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act.—Senator Long stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify must comply with the following rules:

(1) A copy of the statement must be filed by the close of business the day before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 75 copies must be submitted by the close of business the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Committee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for oral presentation.

Written Testimony.—The Chairman stated that the Committee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies by Wednesday, August 25, 1976, to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

[H.R. 13367, 94th Cong., 2d sess.]

AN ACT To extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fiscal Assistance Amendments of 1976".

DEFINITION

SEC. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

SEC. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103. (b) Section 123 (a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

SEC. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

EXTENSION OF PROGRAM AND FUNDING

SEC. 5. (a) Section 105 of the Act is amended—

(1) by inserting "or in an appropriation Act" 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 the fiscal years beginning October 1, of 1977, 1978, and 1979, $6,650,000,000.

"(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, $4,780,000."; and

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

(b)(1) and Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amounts 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) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "ending on or before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(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 amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

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

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

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

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

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

SEC. 6. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

SEC. 7. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) UNIT OF LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and main-

tenance; (M) mass transportation; and (N) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaska Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since January 1, 1076, and continues to provide two or more such public services.".

CITIZEN PARTICIPATION; REPORTS

SEC. 8. (a) Section 121 of the Act is amended to read as follows:

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

"(a) REPORTS ON PROPOSED USE OF FUNDS.—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, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) PUBLIC HEARINGS REQUIRED.—

"(1) PRE-REPORT HEARING.—Not less than 7 calendar days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning 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.

"(2) PRE-BUDGET HEARING.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitle A 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 have answered questions concerning the entire budget and the relation to it 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.

"(d) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED AND ACTUAL USE REPORTS.—

"(1) IN GENERAL.—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, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularly each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

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

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitle A to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) WAIVER.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative 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 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) REPORTS PROVIDED TO THE GOVERNOR.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) PLANNED USE REPORT TO AREAWIDE ORGANIZATION.—At the same time that the proposed use report in published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the pro-

visions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 802 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

(b)(1) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) REPORT OF THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury 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 preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(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 citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitle A;

"(3) 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;

"(4) the manner in which funds distributed under subtitle A have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

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

(2) Section 105(a)(2) of the Act is amended by striking out "March 1" and inserting in lieu thereof "January 15".

NONDISCRIMINATION; ENFORCEMENT

SEC. 9. (a) Section 122 of the Act is amended to read as follows:

"SEC. 122. NONDISCRIMINATION PROVISION

"(a)(1) IN GENERAL.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, 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. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) EXCEPTIONS.—

"(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves 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, directly or indirectly, 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) AUTHORITY OF THE SECRETARY.—

"(1) NOTICE.—Whenever there has been—

"(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national

origin, age, or handicapped status in any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A;

"(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle (A) that a State government or unit of local government is not in compliance with subsection (a)(1),

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provision of subchapter II of chapter 5, title 5, United States Code.

"(2) VOUNTARY COMPLIANCE.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) SUSPENSION AND RESUMPTION OF PAYMENT OF FUNDS.—

"(A) SUSPENSION AFTER NOTICE.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(ii) an administrative law judge has not made a determination under paragraph (4)(A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary, after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a)(1).

"(B) RESUMPTION OF PAYMENTS SUSPENDED UNDER SUBPARAGRAPH (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

"(C) SUSPENSION UPON ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such

preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) HEARINGS; OTHER ACTIONS.—

"(A) PRELIMINARY HEARING.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (B) of this paragraph.

"(B) COMPLIANCE HEARING.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) JUDICIAL REVIEW.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or 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 this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative 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 by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"SEC. 124. COMPLAINTS AND COMPLIANCE REVIEWS

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

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigaton, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"SEC. 125. PRIVATE CIVIL ACTIONS

"(a) STANDING.—Whenever a State government or 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.

"(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.".

AUDITING AND ACCOUNTING

SEC. 10. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) ACCOUNTING, AUDITING, AND EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) INDEPENDENT AUDITS.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A or D conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure independent audits are conducted in accordance with such standards, but 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 not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews conducted under this paragraph for inspection and reproduction as public documents.

"(3) 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. 11. Section 123 of the Act 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, directly or indirectly, 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. 12. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b) (1) The amendments made by section 5 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 7 of this Act shall take effect at the close of September 30, 1977.

SEC. 13. Any hearing required by this Act to be held by a local or State government shall provide senior citizens and senior citizens organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.

DEFINITION OF EXHAUSTION OF ADMINISTRATIVE REMEDIES

SEC. 14. As used in section 125 of this Act, administrative remedies shall be deemed to be exhausted upon the expiration of 60 days after the date the administrative complaint was filed with the Office of Revenue Sharing, or any other administrative enforcement agency, unless within such period there has been a determined by the agency on the merits of the complaint, in which case such remedies shall be deeemd exhausted at the time the determination becomes final.

Passed the House of Representatives June 10, 1976.

Attest: EDMUND L. HENSHAW, Jr., *Clerk.*

Senator HATHAWAY. Our first witness this morning is Hon. William Proxmire, a United States Senator from the State of Wisconsin.

Senator Proxmire?

STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator PROXMIRE. Thank you very much, Mr. Chairman.

Mr. Chairman, I imagine that the overwhelming amount of testimony this morning will be in favor of revenue sharing. There is no question but that revenue sharing is going to pass. It passed the House 361 to 35; it will pass the Senate overwhelmingly. It will be signed by the President who, of course, welcomes it.

It is absolutely inevitable.

It is warmly supported by State and local governments, as we might imagine. In fact, it is so overwhelmingly supported, I have had the experience of having my best friends in Wisconsin refuse to shake hands with me because of my position on revenue sharing.

I do recognize the great need that State and local governments have for these funds. I recognize that it has the great merit of reducing or eliminating bureaucratic interference, eliminating irrelevant national standards that may not apply to a particular locality, providing funds that can be very helpful in that way.

However, there are very strong arguments that I think should be considered. No. 1, we ought to be very careful on this. As you know, we do not have the kind of surplus that was envisioned when revenue sharing was proposed by Walter Heller and Joe Pechman. We have a huge deficit; we are facing another big deficit.

No. 2, the real growth in Government has not been at the Federal level, but at the State and local level. As a matter of fact, since 1960, we have had an increase from 6 million to 12 million in local and State employees, an increase from 2.3 to 2.8 in Federal employees. Meaning, whereas the Federal employees constitute a smaller share of the work force now than they did in 1960, State and local employees

constitute a much larger share. That is where the major growth in Government is concentrated.

If people want to object to big government, they should focus on the big increase in State and local government.

Furthermore, Mr. Chairman, revenue sharing is simply not accomplishing its objective. A study by the League of Women Voters, which was a 2-year study—we all recognize that is a competent and objective group—found this, and I will quote from their findings: "Because of the fungibility of GRS funds, it was impossible for survey monitors to conclude whether or not revenue sharing has helped create job opportunities or altered the pattern of State spending.

"However, since the influx of these new dollars occurred at a time when other Federal and domestic programs were being reduced and terminated, it is unlikely that either economic goal was accomplished."

They go on to say: "What has happened in the area of citizen participation in revenue sharing and civil rights compliance at the State level? The former has not materialized at all, and the presence of the latter is highly questionable."

Mr. Chairman, the principal problem here is that there is very poor accountability. The league found that 38 percent of people in State and local governments did not know where revenue sharing went.

There is a lack of effective discipline here.

It is vital in Government spending that there be some basis for taxpayer restraint, taxpayer objection, taxpayer insistence on justifying the kind of spending that you undergo.

Senator HATHAWAY. Do you think, Senator, it would be enough if we have some stringent sunshine amendments whereby the taxpayers will have some input into the spending process prior to the commitment of the expenditure?

Senator PROXMIRE. That would help, but I want to suggest an amendment that will go a little further than that, and provide a focus or basis for the taxpayers organizing and insistence of justification.

No matter what kind of sunshine amendments you have, still money from Washington, you know, is considered free money, fountain pen money.

Sunshine amendments will not make it count as effectively as what I am proposing here. Here is what I propose to do: I propose to make State officials accountable for revenue sharing funds in the following way. We would return the same amount to every State, Maine, Oregon, Wisconsin would get the same amount.

However, unless the State passes a revenue sharing law saying it will appropriate these funds for revenue sharing, those funds would go back to the State Federal income taxpayers in Maine, Oregon, and Wisconsin and the other States, would go back to them as refunds on their Federal income tax.

We calculate that in 1975, Wisconsin taxpayers would have received $85 on the average in refunds, about 7 percent of what they pay.

Now, I am convinced in my State, and probably in most States, the State legislature would pass this law. It would appropriate the revenue sharing. But that action gives the taxpayer groups in the State a focus for insisting that revenue sharing be based on justifiable causes and programs, that there be some basis, some focus for insisting on this

kind of justification, other than reporting which may or may not get attention, or may not provide that kind of focus.

This is the heart of my proposal. I could support revenue sharing if this kind of amendment would pass. Then you would have the same kind of discipline for revenue sharing money that you have at the present time for other expenditures by State and local governments.

This is the missing ingredient that we do not have at the present time. The money comes from Washington; therefore, there is not the discipline or restraint that you should have.

Senator HATHAWAY. Your proposal would be what, now?

If the State did not have an appropriation proposal, each individual in the State would get a prorated share?

Senator PROXMIRE. This would not take effect until the first year would be clear. The revenue sharing money would go back beginning in fiscal year 1978. You would have to pass by July 1, 1977, the State legislature would have to pass a law providing that the revenue sharing money would go for revenue sharing.

If they did not pass that law, it would go as a refund to the income-tax payers in that particular State.

Senator HATHAWAY. Senator Packwood?

Senator PACKWOOD. No questions.

Senator HATHAWAY. Thank you very much, Senator Proxmire.

[The prepared statement of Senator Proxmire follows:]

TESTIMONY OF SENATOR WILLIAM PROXMIRE

Mr. Chairman, I am here to testify on the revenue sharing bill (H.R. 13367), and to support my amendment (No. 1653) to the bill.

NO REVENUE TO SHARE

The first problem with revenue sharing is that there has been no revenue to share. When it was proposed by Walter Heller and Joe Pechman they argued there would be large Federal budget surpluses which would put a great fiscal drag on the economy and create unemployment and recession. These anticipated surpluses, it was argued, could best be used to help State and local governments meet their fiscal needs.

But instead of surpluses there have been deficits—about $160 billion in Federal deficitis since revenue sharing went into effect.

Meanwhile we have provided $30 billion in Federal revenue sharing spending without providing 1 cent in new revenues for the program. It has been financed by deficit spending. This bill proposes to spend another $25 billion over 4¼ fiscal years. And again there is no revenue to share. The budget estimate for the fiscal year 1977 deficit is almost $43 billion.

Ironically, the States and localities are now where the big spending problems exist. Over the past decade the Federal Government has held its spending to about 22 percent of the GNP. But State and local spending has gone up dramatically. The point is that if one is really interested in cutting Government spending—and taxes—one very important place to examine spending is at the State and local level.

Instead, what revenue sharing does is to give the States and localities an open ended appropriation for which they have to make no serious accounting to the people.

In fact I'm sure all Senators have heard of examples where local citizens balked at some particular proposed local spending proposal on grounds that it was foolish or had a very low priority. Local officials then paid for it through revenue sharing because there was no specific local or State tax burden relating to the foolish spending of those funds.

THOSE WHO SPEND MONEY SHOULD HAVE TO RAISE IT

That leads to a second problem with revenue sharing; namely, that it offends against a fundamental fiscal principle. That principle is that those who spend

money should have to raise it. That's the way to get fiscal restraint, and the one effective way.

The state and local officials who spend revenue sharing money don't have to impose the taxes to raise it.

I can understand why governors, mayors, city managers, and county officials are so strong for revenue sharing. We in Congress pass the taxes or sanction the deficit and they get to spend the money with little or no strings attached.

They have the best of all worlds. But they should not moralize against those of us who criticize revenue sharing and who believe the program often results in the use of funds for foolish or low priority projects. As a measure of this, the League of Women Voters in a two-year study examining revenue sharing in six states found that 38% of those who were interviewed for their studies—Governors, State Legislators, media representatives, agency and department heads, comptrollers, civil rights and human affairs officers, etc.—did not know how the money was spent (General Revenue Sharing and the States, Chart II, p. 26)!

The League study also concludes that in measuring the success of the program almost none of the arguments or goals originally offered in support of the program passage have been met or accomplished. (Ibid., pp. 24–25.)

PROPOSED AMENDMENT

So what do we do about this? Here's what I propose:

My amendment would reimpose some fiscal discipline on the program. It would return the revenue sharing money to individual federal income tax payers unless the state legislatures, by law, specify that the funds should be distributed to the state and local units of government according to the revenue sharing formula.

In effect each state legislature has to determine whether it is going to spend the money or return the money to the taxpayers.

In the case of the State of Wisconsin if my amendment had been in effect for the last year for which we have complete figures (1974) and the State Legislature had failed to pass a law distributing the funds, some $152 million in revenue sharing funds would have been returned to 1,798,702 Wisconsin taxpayers who had filed a federal income tax return.

This would have amounted to about $85.00 per average tax return or a seven percent federal income tax cut.

LEGISLATURES HAVE A CHOICE

I recognize that the cities and towns of this country urgently—in some cases desperately—need this money. Local taxes are punishing, and local needs are vital. That's why the legislature should have the choice my amendment requires them to make.

My amendment would also allow a state legislature to split the money by allowing a part of it to go for revenue sharing and a part of it returned as a tax refund.

The amendment would in no way change the revenue sharing formula, the amount due each state or any other provision of the law.

If a state legislature by law passes the money on to the local units of government, fine. They get the money. The state has to bite the bullet, make the painful choice of spending instead of refunding the taxpayer his money. If a state legislature fails to act, then the people who paid the taxes get their fair share of the money by way of a tax refund.

Since the one-man, one-vote decision of the Supreme Court state legislatures fairly represents all the people of a state. Further, they are right ones to make the decision because all other local units of government—counties, cities, towns, etc.—are the legal creatures of the state governments.

SPECIFIC PROVISIONS

The amendment provides that the law must be passed by July 1st, preceding the beginning of the fiscal year in which the revenue sharing funds are paid out. This means that each state would have until July 1st, 1977, to pass the law dealing with funds due in the fiscal year beginning October 1st, 1977. Because of the last date, the amendment would not apply to fiscal 1977. The amendment provides that a state legislature can act for two years in advance as some legislatures meet only once every two years.

Technically the formula provides that each taxpayer would get the same percentage of the total revenue sharing funds due each state as the percentage his personal federal income taxes are to the total federal income taxes paid by all individual taxpayers in the state.

To put it more simply, if the revenue sharing funds due a state were equal to five percent of the federal personal income taxes paid by the citizens of the state, then each taxpayer would get a five percent refund.

The amounts would be provided in tables in the tax instructions just as tables are now provided for amounts of state gasoline taxes and state sales taxes which can be claimed.

RETURNS FISCAL DISCIPLINE TO THE PROGRAM

I believe my amendment would give the fiscal responsibility and fiscal discipline this program now lacks. The people, working through their state legislators, will make their wishes known. I believe the effect will be to make state and local governments far more careful than they have been as to how they spend revenue sharing money. If they are not careful, the people will demand that the money be returned rather than spent foolishly.

Senator HATHWAY. Our next witness is the Honorable Dante Fascell, U.S. Representative from Miami, Fla.

Congressman, it is a pleasure to have you with us.

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Representative FASCELL. Thank you very much, Mr. Chairman.

I appreciate the opportunity to discuss revenue sharing with you.

I do not know of a program that does not have flaws, and revenue sharing has its share. It would be a mistake for the Congress, in my judgment, not to concern itself with those matters.

To ignore the fact that independent studies have been made, and that the General Accounting Office has made its own studies and recommendations, or to close our eyes to the knowledge that flows back to us from the actual implementation of the program, would be a serious mistake.

Obviously, from a municipal standpoint, or a recipient standpoint, the less complication, and the fewer strings, the better.

I suppose that we might eliminate all requirements some day. I hope not. I would not want to see a single tax system in this country for the distribution of revenue. I think that we have enough trouble now.

As the Senator preceded me pointed out, much of the recent governmental growth has been in State and local spending. The Federal Government has contributed its share, but a big portion of it has been at other levels. There is still a need for revenue coming from the Federal Government, because of the great capacity of the Federal Government to provide it.

However, to deny that there should be reliable accountability, adequate citizen participation, improvements in regard to civil rights, greater formula equity and State and local governments' incentives for modernization, seems to me to be in error, and totally ignores the criticism of the present program.

We cannot tell the jurisdictions what the money can be spent on, but at the very least, we ought to provide some way for local citizens to participate in the budgeting process and to assure that we do not violate civil rights in the expenditure of funds.

There is going to be a lot of pressure on the Senate to change the

civil rights improvement that was made in the House bill. I think that for the Senate to cave in on that would be a gross mistake.

Senator HATHAWAY. I agree with you.

Representative FASCELL. The very least we could do is hang on to some of the changes that were made in the House bill.

Civil rights is an area where many local governments feel that this would create a great deal of problems for them, but to spend Federal money and to know that whether we do it inadvertently, or directly or indirectly, we are discriminating against people who ought to be the recipients of these funds, it seems to me, would be a tragedy.

So I would hope that at the very least those changes that were made in citizen participation and civil rights in the House bill would be improved on by this body and not rejected out of hand.

I think that a strong case could be made for a revised distribution formula. I guarantee you that the counties and cities do not want to change anything. They want to get every dollar they can get, the way they are getting it.

That does not change the fact that you have tremendous inequities in the system and that the real question arises as to whether what we are trying to do at the national level in terms of meeting the needs of the people is actually being accomplished.

One of the reasons I introduced the reform bill, which was very carefully considered by both the House subcommittee and the full committee, was to incorporate all of the recommendations for improvement in revenue sharing which flowed out of the studies by the League of Women Voters, other nonpartisan groups, and the General Accounting Office.

One of them was to try to meet the question of need with some kind of new formula which was carefully tested in actual computer runs. This confirmed that we could use, instead of the per capita formula, the number of people below the poverty level as an indication of need.

What that proposed formula change does, basically, is provide extra funds in areas, such as urban and rural areas, where there is a high count of poor people, people below the poverty line. Under the present formula there are areas which might have an extra need, but because of the high per capita income it is not reflected adequately, and there is a shortage of funds under the existing measure of need. In the large cities that is particularly true. In rural areas where there are concentrations of the rural poor, that is also true.

It is possible to retain the basic formula, and this is what I favor, for distribution of the existing level of funds so that the cities and counties would not receive less money than they are getting now.

We want to provide a minimum amount of $150 million of additional funds and distribute it under the new formula to see how it would benefit those areas of particular need. That was defeated, and unfortunately, we lost an opportunity, unless the Senate wants to take it up as it now considers the bill.

If you want to provide an extra $150 million, the cities and counties would rather have it for growth under the present formula and therefore, would urge the Senators, I am sure, not to consider a supplementary formula.

I think that would be a mistake. I think that we ought to try at least a reasonable, small amount without taking anything away from the recipients under the present distribution system for the full

amount that would be allowed in the bill and put an extra pot, if necessary, to try a distribution under a revised needs formula.

Some people might be apprehensive about that, but I think that we ought to give it a try.

Mr. Chairman, that is about it. I would simply close by saying that this is an important bill. I voted against it in the House, because the reforms were not adequate, in my judgment.

I am not blind to the fact that municipalities need the money. The law ought to be extended for a reasonable period of time.

We ought to do it as reasonably quickly as we can. They have already been delayed too long in making their decisions on funding. I think that that is unfortunate.

I know that the Senate will move with great speed and deliberation to consider this matter. I hope, in that process, that it will retain what we consider important reforms that have already been made, and take some time to consider the others that I have suggested.

Thank you very much

Senator HATHAWAY. Thank you, very much.

Senator Packwood?

Senator PACKWOOD. I have no questions, Mr. Chairman, but I have a statement of Senator Fannin's that he would like inserted. I ask unanimous consent that it be inserted.

Senator HATHAWAY. Without objection.

[The statement follows. Oral testimony continues on p. 42.]

STATEMENT OF SENATOR PAUL FANNIN

Mr. Chairman, after reviewing the recently passed House bill on General Revenue Sharing (H.R. 13367), which has been referred to the Senate Finance Committee, I am concerned about provisions of the bill which relate to eligible units of local governments, reporting requirements, public hearings and auditing requirements. I urge a close scrutiny and careful deliberation of those provisions so that we may improve the final legislation in order to reduce the likelihood of public confusion and reduce the administrative burden and costs that will otherwise be incurred at the state and local government level.

I was most gratified to hear of the overwhelming approval given by the House of Representatives to the extension of General Revenue Sharing for another 3¾ years. The many governmental jurisdictions across the country, would experience difficult budgetary problems over the next few years if General Revenue Sharing funds are not made available in an amount at least equal to the current funding level. The bill passed by the House addresses the immediate problem of extending this funding so vital to state and local governments and with respect to that end, I certainly support an extension.

The House bill presents some problems which, while not insurmountable, could result in a confused citizenry and administrative difficulty. These problems which I have stated above in addition to the Davis-Bacon Act provision should be eliminated.

ELIGIBLE UNITS OF LOCAL GOVERNMENTS

The bill establishes additional eligible units of local government which will create tremendous administrative problems, and there is no compelling explanation why the current law that provides eligible units of local government as determined by the Bureau of Census with additional units for Indian tribes and Alaskan native villages would not be adequate. To do otherwise would necessitate the creation of new administrative activity with tremendous cost and no perceivable benefit.

REPORTING REQUIREMENTS—PUBLIC HEARINGS

The bill requires governmental units to report to the Office of Revenue Sharing on the proposed and actual use of funds, and to hold at least one public

hearing for citizen input just prior to the submission of the proposed use report for each entitlement period. This in itself is appropriate and reasonable; but given the fact that the entitlement periods generally coincide with the Federal government's new fiscal year starting October 1, whereas the fiscal year period for the preponderance of state and local governments begins on another date, some real difficulties are created. Of course, the problem is compounded because the budgetary cycle observed in each governmental jurisdiction is determined largely by the start of the fiscal year.

To avoid this kind of situation (which would be the rule around the nation rather than the exception) it would be far better if local governments were allowed to submit reports on the use of Revenue Sharing funds according to the local fiscal year and local budgetary requirements, rather than to require such reports to coincide with the Federal government entitlement periods, which have no significance to the citizens or the governmental officials of a locality. If necessary, certification and assurances of compliance could be given by the local government prior to the start of each entitlement period in order to receive quarterly checks, but the reports could follow in a pattern consistent with local budgeting requirements. Not only would that process be more convenient and more understandable to all concerned, but it would be the best way to ensure that the original intent of this part of the legislation—which is to obtain timely and meaningful citizen input—is achieved.

AUDITING REQUIREMENTS

The House bill would require an annual independent audit of all financial accounts of the local governmental unit receiving Revenue Sharing funds. While it would undoubtedly be beneficial to have an annual independent audit, many governmental units are not required by local laws to do so, and these governments have established auditing practices which are considered satisfactory and which are less costly to the taxpayer.

I fully understand the need for and the intent of the auditing provisions, but in order to accomplish the same objective, and yet to avoid undue hardship on jurisdictions which are adequately protected at present, perhaps the requirement could be modified to apply only to jurisdictions which do not currently make provision for outside audits or which do not have auditing capabilities available. At the least, the annual audit requirement should not be implemented immediately, but a reasonable time should be given to comply.

DAVIS-BACON ACT PROVISION

In addition to the above problems which are raised by the House bill on General Reveune Sharing, I am absolutely opposed to continuing the extension of the provisions of the Davis-Bacon Act essentially to local construction projects developed with revenue sharing funds. In view of the clear inflationary effect of the Davis-Bacon Act on construction programs, I find it hard to justify its application in a program which is based on meeting financial problems caused by inflation. It is my intention to seek removal of Davis-Bacon from this legislation and I will carefully question every witness about the effect of this provision on local construction projects.

Thank you, Mr. Chairman.

THE LIBRARY OF CONGRESS
Congressional Research Service

WASHINGTON, D.C. 20540

GENERAL REVENUE SHARING: A COMPARISON OF PROVISIONS OF THE 1972 ACT WITH THE FORD ADMINISTRATION PROPOSAL AND WITH H. R. 13367 AS APPROVED BY THE HOUSE OF REPRESENTATIVES

Maureen McBreen
Economist in Taxation and Fiscal Policy
Economics Division

August 9, 1976

GENERAL REVENUE SHARING: A COMPARISON OF PROVISIONS OF THE 1972 ACT WITH THE FORD ADMINISTRATION PROPOSAL AND WITH H.R. 13367 AS APPROVED BY THE HOUSE OF REPRESENTATIVES

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved By the House of Representatives (June 10, 1976)
Title of legislation	State and Local Fiscal Assistance Act of 1972	a/	Fiscal Assistance Amendments of 1976.
Life of program	January 1, 1972 through December 31, 1976.	Extended for 5-3/4 years-- to September 30, 1982.	Extended for 3-3/4 years--to September 30, 1980.
Funding	Creates a trust fund known as the State and Local Government Fiscal Assistance Trust Fund to which amounts derived from the Federal personal income tax are appropriated and out of which quarterly payments are made to eligible State and local governments under provisions of this Act. This funding by means of permanent appropriations makes these funds available automatically for each State and local government without necessitating annual Congressional appropriations. Amounts appropriated are as follows:	Continues financing by means of permanent appropriations of $43.1 billion to the State and Local Government Fiscal Assistance Trust Fund to finance this program from July 1, 1976 through September 30, 1982. Included in this total is an estimated $39.85 billion provided for the 5-3/4 year extension period (from January 1, 1977 through September 30, 1982). The amounts appropriated are as follows:	Inserts an entitlement provision in this bill which guarantees that payments will be made automatically to State and local governments which meet the requirements of this legislation. Authorizes the following appropriations to the State and Local Government Fiscal Assistance Trust Fund to pay entitlements:

a/ No title is cited in the bill, but in President Ford's message to the 94th Congress transmitting a draft of proposed legislation to extend and revise the State and Local Fiscal Assistance Act of 1972, it is cited as the "State and Local Fiscal Assistance Act Amendments of 1975" (94th Congress, 1st Session. House Doc. No. 94-117).

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Funding (continued)	Jan. 1, 1972 - June 30, 1972 $2,652,390,000 July 1, 1972 - June 30, 1973 5,642,280,000 July 1, 1973 - June 30, 1974 6,054,780,000 July 1, 1974 - June 30, 1975 6,204,780,000 July 1, 1975 - June 30, 1976 6,354,780,000 July 1, 1976 - Dec. 31, 1976 3,327,390,000 Total...30,236,400,000	July 1, 1976 - Sept. 30, 1976 $1,626,195,000 Oct. 1, 1976 - Sept. 30, 1977 6,542,280,000 Oct. 1, 1977 - Sept. 30, 1978 6,692,280,000 Oct. 1, 1978 - Sept. 30, 1979 6,842,280,000 Oct. 1, 1979 - Sept. 30, 1980 6,992,280,000 Oct. 1, 1980 - Sept. 30, 1981 7,142,280,000 Oct. 1, 1981 - Sept. 30, 1982 7,292,280,000 Total...43,129,875,000 Estimated total for 5-3/4 year extension period (Jan. 1, 1977 - Sept. 30, 1982)... $39.85 billion. Exempts amounts appropriated from provisions of Section 401 (a) and (b) of the Congressional Budget Act of 1974, which means that they will continue to become available automatically without necessitating annual appropriation action by Congress.	Jan. 1, 1977 - Sept. 30, 1977 $4,991,085,000 Oct. 1, 1977 - Sept. 30, 1978 6,654,780,000 Oct. 1, 1978 - Sept. 30, 1979 6,654,780,000 Oct. 1, 1979 - Sept. 30, 1980 6,654,780,000 Total...24,955,425,000

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Eligible units of local government	General purpose units of government (counties, municipalities, townships) as determined by the Bureau of the Census for general statistical purposes. Also includes Indian tribes and Alaskan native villages which perform substantial government functions.	No change from 1972 law.	Same as provided in the 1972 Act plus the following additional requirements. With respect to entitlement periods beginning on or after October 1, 1977, such governments must impose taxes or receive governmental transfer payments which are utilized by them for the substantial performance of at least two of the following 14 public services: police protection; courts and corrections; fire protection; health services; social services for the poor or aged; public recreation; public libraries; zoning or land use planning; sewerage disposal or water supply; solid waste disposal; pollution abatement; road or street construction and maintenance; mass transportation; and education. Also at least 10 percent of their total expenditures (excluding those for general and financial administration and for the assessment of property) during the most recent year, must have been utilized for each of two of any of the 14 specified services. This 10 percent expenditure requirement does not apply to governments which substantially perform four or more of such public services, or which have performed two or more of such

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Eligible units of local government (continued)			public services since January 1, 1976, and which continue to provide two or more of such public services. These additional requirements will eliminate an unknown number of single-purpose units from the benefits of this legislation.
Formula	One of two formulas may be used to determine total State allocations, depending on which would yield the highest amount. Under the 5-factor, House-developed formula, distribution is determined on the basis of the following factors: State population, urbanized population, population inversely weighted for per capita income, State personal income tax collections and general tax effort of State and local governments within the State. Under the 3-factor Senate-developed formula, allocation is based on State population, State and local tax effort, and the relative income factor (inverse relative per capita income) of the State. State governments receive one-third of the total amount distributed, and local gov-	Same as the 1972 law with the following exceptions: The maximum per capita allocation allowed for county areas or units of local government (excluding county governments) is increased from 145 percent to 175 percent of the per capita allocation to all local governments in the State in which such governments are located. Provision is made for periodic increases of this ceiling at the rate of 6 percentage points per entitlement period. Such increases shall begin with entitlement periods which begin on July 1, 1976 and thereafter. A provision is added that whenever an Indian tribe or an Alaskan native village waives its entitlement of these funds, its entitlement	The basic distribution formula is unchanged from the 1972 law.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Formula (continued)	ernments the remaining two-thirds. Local government shares are distributed as follows: County areas, municipalities and individual townships, on the basis of population, tax effort and the relative income factor of the governing unit. County governments and aggregate township shares within county areas are computed on the basis of their adjusted taxes. Indian tribes and Alaskan native villages, on the basis of population. A ceiling and a floor is placed on the amount which any county area or local unit of government (excluding county governments) may receive. Their per capita allocations must not be more than 145 percent nor less than 20 percent of the per capita allocation made to all local governments in the State. A local government's allotment may not exceed an amount which is one-half the sum of adjusted taxes it derives from its own sources and from revenues it receives from	is to be added to that of the county government in the county area in which such tribe or village is located. The 1972 law works in such a way that any amounts waived are a part of the county area's allocation in which such tribe or village is located which are distributed among the county government as well as among other units of local government in the same county. A further provision is added which authorizes the Secretary of the Treasury to reserve such percentage of the total payment to be disbursed for any entitlement period as he considers necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among State and local units of government.	

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Formula (continued)	other governmental units in any entitlement period. A de minimus provision prohibits any local government from receiving any funds unless its allocation amounts to at least $200 in any entitlement period. A State is permitted to enact legislation adopting an alternative formula for distribution of funds among county areas or among other local governing units (other than county governments) within the State.		
Local Government Priority Expenditures	Local government allocations of these funds must be spent for the following priority expenditures: (1) ordinary and necessary maintenance and operating expenses for: (A) public safety (including law enforcement, fire protection, and building code enforcement), (B) environmental protection (including sewage disposal, sanitation, and pollution abatement), (C) public transportation (including transit systems and street and roads), (D) health, (E) recreation, (F) libraries, (G) social services for the poor or	No change from the 1972 law.	Eliminates Section 103 of the 1972 Act which restricts local government expenditures of their allocations to specified priority purposes.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Local Government Priority Expenditures (continued)	aged, and (H) financial administration; and (2) ordinary and necessary capital expenditures authorized by law.		
Prohibition on use of allocations for matching Federal grants received under other programs	Prohibits use of allocations received by State and local governments under this Act to match Federal grants received under other programs.	No change from the 1972 law.	Eliminates Section 104 of the 1972 Act which contains this prohibition.
Reporting requirements: Recipient governments:	Actual Use Report--Each State and local government recipient must submit to the Secretary of the Treasury after the close of each entitlement period, a report setting forth the amounts and purposes for which allocations received during such period were actually spent or obligated. Planned Use Report--Each State and local government which expects to receive funds under this Act is required to submit to the Secretary of the Treasury before the beginning of each entitlement period, a report setting	Actual Use Report--The Secretary of the Treasury is given full discretion in prescribing the form and content of such reports. The language of the 1972 Act is stricken which requires that these reports must provide information on the amount and purposes for which funds received by a governmental unit during an entitlement period have been spent or obligated. Planned Use Report--The Secretary of the Treasury is given full discretion in prescribing the form and content of such reports.	The proposed use (designated planned use in the 1972 Act) and the actual use report provisions are reversed in their order of presentation and contain many more requirements than are contained in the present law: Proposed Use Report--State and local recipients must not only submit a report to the Secretary of the Treasury before each entitlement period on how they expect to spend their allotments, but they must also provide comparative data on the use made of funds received during the two immediately preceding entitlement periods. Such reports must also include information on

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Reporting requirements: Recipient governments (continued)	forth how it plans to spend or obligate funds received during this period. The Secretary of the Treasury shall prescribe the form and content of such planned use and actual use reports.	The language of the 1972 Act is stricken which requires that recipient governments must include in these reports information on the amount and purposes for which they plan to spend or obligate allocations which they expect to receive during an entitlement period.	how past, current and proposed use of the funds relate to relevant functional items in each recipient government's budget. They must also indicate whether the funds will be spent for a new activity, to expand or continue an existing activity, or for tax stabilization or reduction. Actual Use Report--Recipient governments are required to make actual use reports available to the public for inspection and reproduction. In addition to reporting how their allotments have been spent or obligated, they must also report how they have been appropriated. As with the proposed use report, they are required to show the relationship of these funds to the relevant functional items in their government's budget. Furthermore, they must explain all differences between how they had proposed to use the funds and how they were actually spent during an entitlement period.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Reporting requirements (continued): Secretary of the Treasury	Sec. 105(a)(2) requires the Secretary of the Treasury to submit a report to Congress no later than March 1 of each year on the operation and status of the State and Local Government Fiscal Assistance Trust Fund during the preceding fiscal year.	A new subsection (e) is added to Section 105 which requires the Secretary of the Treasury to submit no later than September 30, 1980, a report to Congress containing recommendations concerning the extension of this program.	A new subsection (d) is added to Section 123 of the Act which requires the Secretary of the Treasury to include with the annual report to Congress required under Sec. 105 (a)(2), a report on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but it shall not be limited to, a comprehensive and detailed analysis of the following: (1) measures taken to comply with the Nondiscrimination Provision (Sec. 122), including a description of the nature and extent of any noncompliance and the status of all pending complaints; (2) the extent to which citizens in recipient jurisdictions have participated in decisions made determining expenditure of allocations received under this act; (3) the extent to which recipient governments have complied with Section 123, including a description of the nature and the extent of any noncompliance of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of this Section; (4) the manner in which funds distributed under this Act have been used, including the net fiscal impact, if any, in recipient jurisdictions; and (5) significant problems which have arisen in the administration of the Act and proposals to remedy such problems through appropriate legislation. Section 105(a)(2) is amended to change the date when the Secretary of the Treasury's annual report must be transmitted to Congress--from March 1 to January 15 of each year.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Reporting requirements (continued):			
Planned and proposed use reports provided to Governor	No provision.	No provision.	Copies of the proposed use and actual use reports must be furnished by the Secretary of the Treasury to the Governor of the State in which the unit of government is located. Such reports are to be in such manner and form as the Secretary may prescribe by regulation.
Proposed use report provided to areawide organization	No provision.	No provision.	At the same time the proposed use report is published and publicized, each unit of local government which is within a metropolitan area is required to submit a copy of its proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out provisions of Sec. 204 of the Demonstration Cities and Metropolitan Development Act of 1966; Sec. 401 of the Intergovernmental Cooperation Act of 1968; or Sec. 302 of the Housing and Community Development Act of 1974.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Public hearings	No specific provision.	A new provision is added which requires recipient governments to give their residents opportunity to present comments and suggestions at a public hearing, or in some other manner as the Secretary of the Treasury may prescribe by regulation, on how their entitlements should be spent.	Pre-report hearing Sec. 121 of the 1972 Act is amended to require that State and local government recipients hold at least one public hearing at least 7 days prior to submission of a government's proposed use report to the Secretary of the Treasury in order that their citizens might be given opportunity to provide written or oral recommendations on possible uses which may be made of anticipated allotments. This requirement may be waived by governments which receive relatively small amounts under this legislation. Pre-budget hearing--These governments are also required to hold at least one public hearing at least 7 days prior to adoption of their budget during which their citizens may also comment on the proposed use of entitlements in relation to the government's entire budget. Hearing is to be held at a place and at a time which would encourage public attendance and participation.

76-811 O - 76 - 3

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Public hearings (continued)			This requirement may be waived by recipient governments if budget processes under State and local laws give assurance that opportunity is given for public attendance and participation, including the holding of public hearings on the proposed use of funds made available under this legislation in relation to their entire budget. An amendment was approved which requires State and local governments to give senior citizen organizations opportunity to participate in any hearings held for the purpose of determining uses to be made of allocations under this Act.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Publication and publicity requirements	Each State and local government recipient is required to publish copies of their planned and actual use reports submitted for each entitlement period in a newspaper which has general circulation within the geographic area of these governments. Furthermore, they must advise the news media of the publication of such reports in the newspapers.	A provision is added which requires the Secretary of the Treasury to prescribe regulations governing how State and local governments shall publicize use of funds received under this Act where newspaper publication costs are excessive or where other means are more appropriate.	A new subsection (d) is added to Sec. 121 of the Act which provides the following: (1) With respect to entitlement periods which begin on or after January 1, 1977, the following actions must be taken: (A) 30 days before the pre-budget hearings: (i) recipient governments must publish in at least one newspaper of general circulation, the proposed use report along with a narrative summary of their proposed budget and notification of the time and place where the pre-budget hearing will be held. (ii) Recipient governments must also make available for inspection and reproduction by the public, copies of the proposed use report, the summary of the proposed budget, and a copy of their official budget document at principal State and local offices and at public libraries. It is required that the official budget of State and local recipients must specify: a) each item which will be funded in whole or in part with funds made available under this Act, b) the total

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Publication and publicity requirements (continued)			amount budgeted for each item, and c) the percentage which funds provided under this Act constitute of total expenditures for each item. Provision is made that the 30-day requirement specified in paragraph (1)(A) may be shortened to the minimum extent possible to comply with State and local law if the Secretary of the Treasury is satisfied that citizens of such governments will receive adequate notification of the proposed use of funds received under this Act. B) Within 30 days after adoption of their budget: (i) State and local recipient governments are required to publish conspicuously in at least one newspaper of general circulation, a narrative summary of their official budget, including an explanation of changes made in the proposed budget and the relationship of the use of funds under this Act to relevant functional items in their budget. (ii) They are also required to make this summary available for inspection and reproduction by the public at principal

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Publication and publicity requirements (continued)			State and local offices and at public libraries. (2) The requirements of Subsection (d)(1) for publication of the proposed use reports and the narrative summaries may be waived in whole or in part, in accordance with regulations issued by the Secretary of the Treasury in those instances when the publication costs would be burdensome in relation to the amount of funds a State or local unit of government would receive, or when such publication is otherwise impractical or infeasible.
Nondiscrimination provision	State and local government recipients are prohibited from discriminating against individuals on the basis of race, color, national origin or sex in their use of funds received under this Act. This provision applies only to those programs which are financed by recipient governments in whole or in part with funds made available under this Act.	A provision is added which expressly authorizes the Secretary of the Treasury to take any of the following actions when it is determined that a State or local government has failed to comply with this nondiscrimination provision: (1) to withhold all or a portion of payments due a State or local government under this Act, (2) to terminate eligibility of such governments to one or more of such payments, and (3) to	Extensive changes are made in Section 122--the Nondiscrimination Provision. They are summarized as follows: The present prohibition on the use of funds received under this Act is extended to include religion, age and the handicapped (mental and physical). This provision is broadened to apply to all programs or activities carried on by a State or local unit of government which receives funds under this legislation. An

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Nondiscrimination provision (continued)	Enforcement of this provision is at the discretion of the Secretary of the Treasury and the Attorney General and is as follows: When the Secretary of the Treasury determines that a State or local unit of government has failed to comply with Sec. 122 (a) of the Act, or an applicable regulation, he is required to notify the governor of the State in which the government charged with discriminatory practices is located and request him to secure compliance. If within a reasonable period of time, the Governor fails or refuses to secure compliance, the Secretary of the Treasury shall take the following actions: (1) refer the case to the Attorney General and recommend that an appropriate civil action be instituted, (2) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964, or (3) take such other action as may be provided by law.	require repayment of allotments which were spent by such governments for programs or activities which are found to be in violation of Section 122 (a) of the Act.	exception is that this provision shall not be applicable in those instances where State or local recipients can prove by "clear and convincing evidence" that none of the funds received under this Act has been used to support programs which are alleged to practice discrimination. Enforcement powers of the Treasury Department are set forth below with a specific timetable providing for the cutoff of funds to those governments which violate Section 122(a) of this Act. Authority of the Secretary of the Treasury: Upon receipt of notice of a finding, after notice and opportunity has been afforded for a hearing: 1) by a Federal (other than a proceeding brought by the Attorney General) or a State court or by a Federal or State administrative agency, or 2) upon a determination after investigation by the Secretary of the Treasury that discrimination has been practiced by a State or local government

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Nondiscrimination provision (continued)	In instances when cases have been referred by the Secretary of the Treasury to the Attorney General, or whenever he has reason to believe that a State or local government is failing to comply with this nondiscrimination provision, the Attorney General may bring a civil action against such governments in any appropriate District court for relief, including injunctive relief.		recipient, the Secretary of the Treasury shall (within 10 days of such finding) notify the Governor of the State or the chief executive officer of the local government which has been charged with discriminatory practices and request such officers to secure compliance. If voluntary compliance is not achieved within 90 days from the time when notification has been made to the Secretary of the Treasury (and after opportunity has been afforded for an expedited preliminary hearing to be held during this 90-day period, at which it is determined whether it is likely that the State government or unit of local government would at a full hearing prevail on the merits on the issue of the alleged noncompliance, the Secretary of the Treasury shall suspend payment of these funds. Such suspension shall be effective for a maximum period of 120 days, or if there is a more formal compliance hearing held during this 120-day period, not more than 30 days after the conclusion of this hearing, unless the Sec-

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976
Nondiscrimination provision (continued)			retary of the Treasury has found that the recipient has not complied with this provision. Provision is made for resumption of payments when: 1) the State or local government in question enters into a compliance agreement signed by the Governor, by the Chief Executive Officer and by the Secretary of the Treasury, 2) when such governments comply with the final order or judgment of a Federal or State court, or if they are found to be in compliance with Sec. 122(a) of the Act by such court, or 3) after a hearing, the Secretary of the Treasury finds that noncompliance has not been demonstrated. Authority of the Attorney General: Payments shall also be suspended by the Secretary of the Treasury in those instances when the Attorney General files a civil action in a U.S. district court alleging discriminatory practices, and it is found that such alleged conduct violates provisions of Sec. 122(a) of the Act. Funds are to be suspended from the governments charged with such practices within 45 days after

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Nondiscrimination provision (continued)			such actions have been filed. Payments are not to be resumed until so ordered by the court. The Secretary of the Treasury shall enter into agreements with State agencies and with other Federal agencies authorizing them to investigate charges of noncompliance.
Complaints and compliance reviews	No provision.	No provision.	A new Section 124 is added which requires the Secretary of the Treasury to issue regulations by March 31, 1977 which will establish reasonable and specific time limits for: 1) the processing of complaints by the Secretary of the Treasury, or appropriate cooperating agencies, of charges made of State and local government violations of provisions of this Act, and 2) for the Secretary of the Treasury to conduct audits and review State and local government compliance with provisions of this Act.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H. R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1975)
Private civil actions	No provision.	No provision.	A new Section 125 is added which contains the following provisions: a) Individuals aggrieved by actions or practices of a State or local unit of government or of employees or officers acting in behalf of such governments are permitted to institute a civil action in a U.S. district court or in a State court of general jurisdiction after administrative remedies have been exhausted. A new Section added to the bill establishes a maximum period of 60 days for the exhaustion of administrative remedies before such civil actions may be instituted. b) Provision is made for the court to grant relief to the plaintiff by means of a temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination or repayment of funds. c) With respect to actions instituted to enforce compliance with Sec. 122(a), the Attorney General, or a specially designated assistant for or in the name of the

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Private civil actions (continued)			United States, may intervene if he certifies that the action is of general public importance. In such action the U.S. is entitled to the same relief as if it had instituted the action.
Davis-Bacon Act provision	Laborers and mechanics employed by contractors or subcontractors on construction projects of which 25 percent or more of the total cost of the project is financed out of revenue sharing funds must be paid at wages not less than those prevailing on similar construction projects in the locality as determined by the Secretary of Labor in accordance with provisions of the Davis-Bacon Act.	No change from the existing law.	No change from the existing law.
Auditing requirements	Governments receiving funds under this Act are required to use fiscal, accounting and auditing procedures which conform to guidelines established by the Secretary of the Treasury after consultation with the Comptroller General. The Secretary of the Treasury shall provide	No change from the existing law.	An additional provision is inserted in the bill which requires recipient governments to conduct independent financial audits in accordance with generally accepted auditing standards. The Secretary of the Treasury shall to accept an audit by a State or local unit of government of funds

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Auditing requirements (continued)	for such accounting and auditing procedures, evaluations and reviews as may be necessary to insure that expenditures made by recipient governments of their allotments comply with the requirements set forth in this Act. The Secretary of the Treasury is authorized to accept audits made by State governments of both State and local government expenditures of funds received under this Act if he determines they are sufficiently reliable to enable him to carry out his duties under this legislation. However, he may also rely on private audits.		they receive if he determines that their audit was conducted in compliance with this legislation and that their procedures are reliable. Another provision is added which requires the Secretary of the Treasury to issue regulations which will require each State and local government receiving funds under this Act to conduct an independent audit of their financial accounts during each fiscal year in accordance with generally accepted accounting standards. These regulations may also permit less formal reviews or less frequent audits for those governmental units where the cost may be unreasonably burdensome in comparison to the amount of funds they receive. Furthermore, these regulations are to require that financial statements and audit reports or informal reviews are to be made available to the public for inspection and reproduction as public documents.

Basic Provisions	Present Law (P.L. 92-512)	Ford Administration Bill (S. 1625/ H.R. 6558)	H.R. 13367 as Approved by the House of Representatives (June 10, 1976)
Lobbying prohibition	No prohibition.	No prohibition.	Section 123 of the Act is amended by adding at the end a new subsection which prohibits any State or local government recipient from using, directly or indirectly, any part of its allocation of funds received under Subtitle A of this Act for lobbying or other activities which are for the purpose of influencing legislation relating to provisions of this Act.

Senator HATHAWAY. Would the countercyclical portion of the public works bill help at all with respect to your problem?

Representative FASCELL. Of course it does, but it is not the full answer to revenue sharing based on a different need criteria.

Senator HATHAWAY. It is possibly abated already.

Senator Nelson?

Senator NELSON. I did not hear Congressman Fascell's statement. Knowing Congressman Fascell, I know it was very good.

Representative FASCELL. Senator, thank you.

Senator HATHAWAY. Thank you very much.

Representative FASCELL. Thank you, Mr. Chairman.

[The prepared statement of Mr. Fascell follows:]

TESTIMONY OF HON. DANTE B. FASCELL

Mr. Chairman, I appreciate this opportunity to discuss my views on H.R. 13367, the State and Local Government Fiscal Assistance Act.

Your Committee is to be commended for scheduling this hearing on this important legislation. I understand that the Committee hopes to meet tomorrow to approve a bill, which may be taken up on the Senate floor on September 10 or thereabouts. I hope that such a prompt timetable can be met, so that the 39,000 governmental units affected by this legislation may make their funding decisions as soon as possible.

As one who is in agreement with the basic purposes of what is known as the general revenue sharing program, I believe that legislation should be adopted to extend it for a reasonable period of time. It is important, however, that Congress act wisely to redress a number of serious deficiencies which have been noted in the program during the first five years of its existence.

The program's flaws can be placed in the general categories of: accountability, citizen participation, civil rights, formula equity, and State and local government modernization. I urge that any extension legislation recommended by the Committee include provisions to clean up flaws in at least these major areas.

If Congress does not act to correct recognized shortcomings in a program as significant as General Revenue Sharing, we will not be meeting our responsibility as responsible custodians of tax funds.

I recognize that the essential difference between revenue sharing and other Federal programs is that funds are provided with "no strings attached." I support this, and agree that as few requirements as possible should be imposed on the uses to which revenue sharing funds are put by State and local recipients.

At the same time, however, we have a direct obligation to assure the taxpayers from whom these revenues were extracted that the *manner* in which funds are spent meets minimum standards of accountability and acceptability. We may not tell local jurisdictions what programs Federal monies may be spent on, but at the very least we want them to use it in a way that allows local citizens to participate in the budgeting process, and that will not discriminate against particular minorities.

The bill passed by the House actually eliminates the current priority uses on which revenue sharing funds may be spent, and eliminates the ban on using revenue sharing funds as matching funds in other Federal programs. These changes provide even more leeway to local governments in spending money.

We did, however, include provisions tightening up on civil rights requirements. We increased the amount of citizen participation that must be provided in the budget process. And we tried to provide better mechanisms for holding local jurisdictions accountable to Congress for the manner in which they spend revenue sharing funds.

So on the one hand, we are reducing strings, while on the other, we are seeking more assurance as to the methods recipient jurisdictions use in spending revenue sharing funds.

I do not claim that the provisions adopted by the House are necessarily the best that can be devised in curing the program's defects. We tried, however, to cope with problems which have been carefully studied and documented by a number of public interest organizations which have taken a close look at this program.

Various studies, including some by the General Accounting Office, have found instances of discrimination in the use of revenue sharing funds, and other shortcomings. There has been little citizen participation, and less enforcement of civil rights. Congress has not been informed on how these funds are spent. The distribution formula has been found to be inequitable in reflecting the congressional intent of weighing more funds for areas that are most in need.

Because of the concerns expressed by the numerous organizations which have examined the revenue sharing program, I introduced H.R. 10319, a reform bill designed to correct such abuses. My bill contained changes in the areas I have mentioned. Although the bill passed by the House did not go as far in meeting the deficiencies as sought by my bill, at least changes in the existing law were were approved in most areas of weakness.

Probably the only major problems where no changes at all were made were in the formula and State and local governmental modernization. The House Committee on Government Operations approved my amendment to revise the formula, and another amendment to provide at least a start toward modernization, but these changes were rejected by the whole House.

I continue to feel that a strong case can be made for revising the distribution formula. My bill would have substituted the percentage of people below the poverty level within any jurisdiction as the measure of "need," rather than per-capita income which is used presently. This is because the income factor can conceal intense pockets of poverty, particularly within urban areas where per-capita income data is high but so is the cost of living. Often there is great actual "need" in such areas for governmental assistance programs of the type that can be funded with revenue sharing monies. Under the formula revision, more funds would go to central cities and poor rural areas.

We learned during the House consideration of this bill that the data is available to adequately implement the formula revision. Printouts showed that the distribution results were good.

I know that representatives of the State and local governments will be asking for a number of changes, such as to tie use reports to the recipient government's fiscal year rather than the Federal fiscal year which begins on October 1 each year. It should be obvious that in all such details the legislation should be made as practical and as workable as possible.

It is equally clear that the House provisions on civil rights should be retained as a minimum. While the House rejected the Committee's recommendation that all administrative recourses need not be pursued before institution of a civil suit for rights violation, it did limit to 60 days the period of delay caused thereby. I strongly urge that this safeguard not be removed. To require that an aggrieved person exhaust all administrative remedies in existing law would gut the civil rights laws and render enforcement impossible under the revenue sharing program.

Your approval of as sound a revenue sharing bill as possible would be an important contribution toward maintaining the viability of our Federal-State governmental structure.

Again, thank you for this opportuntiy to state my views.

Senator HATHAWAY. The next witness is George H. Dixon, Deputy Secretary, Department of the Treasury, accompanied by Richard R. Albrecht, General Counsel.

Mr. Dixon?

Mr. Secretary, it is a pleasure to have you with us.

STATEMENT OF HON. GEORGE H. DIXON, DEPUTY SECRETARY, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY RICHARD R. ALBRECHT, GENERAL COUNSEL

Mr. DIXON. Thank you, Mr. Chairman.

I am pleased to be here today to testify in support of S. 1625, President Ford's proposal to renew the general revenue sharing program. The administration, believes that revenue sharing has worked exceptionally well in responding to the needs which it was designed

to meet. We strongly urge that the program be continued in its present general outlines, as proposed by the President in his message to the Congress in April of 1975.

Since general revenue sharing was enacted in 1972, it has made available over $26 billion to States and communities throughout the Nation. These funds have done much to strengthen the viability of our Federal system of government, a system that is predicated upon the shared exercise of powers and responsibilities. Revenue sharing has contributed to a revitalized federalism by shifting some resources to those governments closest to the people, where there is often a clearer perception of the needs of citizens. Simply put, some tasks are better performed by State and local governments, instead of being directed from Washington.

Revenue sharing has placed funds where need exists. It has given a greater measure of assistance to our hard-pressed center cities than it has to their more prosperous suburbs. It has aided low income States relatively more than those with higher income populations.

The program has been free of the costly, and sometimes counterproductive, bureaucratic redtape associated with Federal aid programs. Small and rural communities, which often benefit little from other Federal assistance, can participate in revenue sharing without engaging in expensive and highly competitive "grantsmanship."

Mr. Chairman, we believe that upon evaluation the committee will find that S. 1625, the administration's renewal proposal, is balanced and well reasoned. It leaves unaltered what has worked and offers improvements in the areas of public participation, reporting and publicity, civil rights, and allocation of funds where experience has shown that change will enhance the program.

S. 1625 would extend the funding of general revenue sharing for 5¾ years—a time frame which assures sufficient certainty to State and local recipients while permitting further congressional and Presidential review of the program's performance.

The administration bill does propose one important modification in the formula—lifting the 145 percent maximum per capita constraint on local entitlements to 175 percent in five increments of 6 percentage points each. This amendment would direct more money into some needy large cities, and, coupled with the proposed $150 million annual funding increments, would not cause a net dollar loss in funding to more than a handful of jurisdictions now benefiting from the constraints.

In the civil rights area, our renewal proposal would provide the Office of Revenue Sharing with a more flexible array of sanctions to be used where needed to achieve compliance. This change is necessary to assure that flexibility exists to withhold all or part of a government's entitlement. It can be argued that the existing statutory framework does not permit partial withholding.

Along with the nondiscrimination requirement, reporting and publicity standards are other major Federal restrictions attached to use of general revenue sharing entitlements. We believe it is important to improve their effectiveness. S. 1625 would give more discretion to the Secretary of the Treasury to prescribe reporting and publicity requirements that are varied by type of recipient government. This

will improve the availability and quality of information while not imposing unneeded burdens on our States and communities.

The administration is proposing one additional closely related requirement: that recipient units assure the Secretary of the Treasury that a public hearing or some appropriate alternative means is provided by which citizens may participate in decisions concerning the use of revenue sharing funds. This provision will help the revenue sharing program better accomplish its goal of bringing Government closer to the people.

We think that the changes we are urging in these areas will serve their purpose without putting an unnecessary burden on States and communities of diverse size and with varied political processes. Strict and pervasive requirements are contrary to the goals of the general revenue sharing program, and would reduce its effectiveness.

As this committee is fully aware, the House of Representatives has passed H.R. 13367, which would extend the General Revenue Sharing program for 3¾ years. The administration's reaction to the House action was summarized by President Ford on June 10. He expressed his pleasure that the House had voted to extend the program in a manner which preserved the basic concepts of revenue sharing. The President urged, however, that the Senate examine the House bill in light of the recommendations contained in S. 1625.

The basic differences between the administration's renewal measure and the legislation passed by the House can be summarized as follows:

(1) The administration has recommended extension for 5¾ years, while the House bill would only continue the program for 3¾ years.

(2) S. 1625, the administration bill, would raise the maximum per capita constraint gradually to 175 percent. The House bill would continue the constraint at 145 percent.

(3) The administration measure would continue to provide for a $150 million annual increase in funding while the House bill would freeze funding at $6.65 billion annually.

(4) The House bill would set new standards of elgibility for jurisdictions to participate in the program while the administration would continue the present standards.

(5) H.R. 13367 would greatly expand Federal requirements governing the manner in which States and localities publicize and report receipt and use of revenue sharing funds. The administration proposal, while requiring public hearings, takes a much more flexible approach in these areas.

(6) The House passed bill mandates new statutory standards in the civil rights areas. The nondiscrimination sanctions of the current law are to be applied to all activities of a government unless it can be shown by "clear and convincing evidence," that shared funds are not involved "directly or indirectly" in a discriminatory activity. In addition, certain administrative actions have to take place within specific statutory time limits. The administration bill, while strengthening the Secretary's enforcement powers, would not further expand the existing broad prohibition against discrimination in activities funded through revenue sharing and does not set a statutory timetable.

If I may depart from the prepared testimony, Mr. Chairman, to make a parenthetical comment, with respect to the application of the

nondiscrimination provisions, the Office of Revenue Sharing, as you know, has been asked to asume the responsibility for the distribution of the funds under title II of the Public Works Employment Act. It seems to us appropriate that the nondiscrimination provision procedures in title II might be used as a guide for setting the revenue sharing nondiscrimination provisions.

Senator HATHAWAY. With respect to the nondiscrimination and the sunshine provisions, would it apply to all the money these governments are receiving, or just the revenue sharing money?

It seems to me, if it is the latter, it is a farce, because the money is fungible. You cannot tell Federal money from local money once it is in the pot.

Unless the civil rights provisions apply to all of the money that is being received, or being used by the recipients of Federal revenue sharing money, then we have not accomplished anything, because by bookkeeping maneuvering, they can shield from civil rights enforcement whatever moneys they want to spend.

By the same token, with regard to the hearing processes, they can keep from public scrutiny the way they are spending the money.

As a practical matter, many jurisdictions across the country do have some kind of hearing requirements before they spend the local money now, but to the extent that some jurisdictions do not have them, I think that we would be well-advised to see that they do, as a condition of receiving the Federal money.

Does the administration agree with that?

I do not think it does, because I have talked to them.

Mr. ALBRECHT. As we discussed vesterday, we do not believe there has been a lot of bookkeeping trickery to hide the way in which revenue sharing money has been spent. We also believe it is possible to identify how revenue sharing funds were spent and to trace the source of different expenditures.

Senator HATHAWAY. I am not saying the way the revenue sharing money was spent. If the only money subject to scrutiny, or the only budget categories, were those in which revenue sharing money was involved, then for categories where the local officials did not want to have public scrutiny, they could just say there is no revenue sharing money involved.

You cannot tell revenue sharing dollars from any other dollars. It is a matter of bookkeeping entries, to determine where the public does have its rights, and where it does not have its rights.

Mr. ALBRECHT. As I indicated to you yesterday, we believe the provisions to which you refer as the sunshine provisions should apply to the decision by the local government on the spending of revenue sharing funds.

We do feel that it is appropriate at that time for the public—so it can make decisions—to have available to it information on all spending, including local revenue.

Senator HATHAWAY. The same way with civil rights?

Mr. ALBRECHT. With respect to civil rights, the current provision talks only in terms of activities, funded in whole or part, with revenue sharing funds. We do not see this as a source of a lot of abuse.

Obviously, the question becomes this—does the Congress want to use the revenue sharing program as the principal means of enforcing

the Nation's civil rights laws against local government—and we think that revenue sharing is not the appropriate device to carry out that purpose.

For that reason, we would limit the nondiscrimination provisions of the revenue sharing program to the use of revenue sharing funds.

Senator HATHAWAY. You could say that it is to insure the fact that the Federal revenue sharing money is not to be used in a discriminatory way, because we really do not know where the Federal revenue sharing dollars go.

We can just assume they are evenly distributed in all categories of the local budget, even though the local budgeteers may say, since we put all the revenue sharing money into education, we can do what we want as far as civil rights is concerned in every other category.

Mr. ALBRECHT. We are not prepared to assume that.

Senator HATHAWAY. Just because the local people say, here is where we put it, we are going to be bound by that. I think that is unnecessarily tying our hands.

Mr. ALBRECHT. I do not think we would take the position that we are bound by it. If they would tell us they are using it in one place and they are actually using it in another place, we would contend——

Senator HATHAWAY. You cannot tell; that is the problem. They put the money in the bank. You cannot tell which is our money, and which is theirs.

Mr. ALBRECHT. We believe most governments keep adequate records. They do maintain a separate trust fund from which they take their revenue sharing funds.

Senator HATHAWAY. It is still fungible.

Senator Packwood.

Senator PACKWOOD. If I may ask some questions on behalf of Senator Fannin, first, would you please comment on the effect that the new reporting requirements will have on increasing the administrative paperwork and the use of services and facilities of the Office of Revenue Sharing?

Mr. ALBRECHT. If the Senator's question is related to the House-passed bill, I think it would have a dramatic impact.

There are a lot of additional reporting requirements. There is a lot of additional eligibility data, for example, in the House-passed bill that seeks to eliminate small, nonactive governments by saying that they would not be entitled to funds unless they performed at least two of a certain list of activities.

That sort of information is not readily available. It would have to be gathered by the Federal Government. It would have to be screened and reviewed.

To do so would involve a substantial, additional administrative expense.

Likewise, in the way in which the public participation section is structured, we believe that it too would impose a substantial additional burden.

Senator PACKWOOD. If we were to enact the House bill as it is, what the effect would be on the necessity to increase that for the Office of Revenue Sharing. I am talking about the auditing requirements, publicity requirements, everything else that the Office is going to have to supervise, if the House bill in the form we now have it passes.

Mr. ALBRECHT. I could give you estimates, but they would be purely guesses, Senator. I think it would be fair to say that we would see a doubling of the staff in a very short time, just having to cope with the initial aspects of it.

I think that would materially change the nature of the program from one with low administrative costs and very little redtape and transmittal of forms back and forth from the Federal Government to local government, to one that is more akin to the usual grant programs.

Mr. DIXON. Senator, if you would like to have an attempt at a more accurate estimate, we would be glad to provide it.

Senator PACKWOOD. I think Senator Fannin would, but if you could get it this afternoon, we would appreciate it, because we are starting markup tomorrow morning.

[The following material was subsequently supplied for the record:]

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., September 1, 1976.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: During the Committee on Finance's hearing on renewal of General Revenue Sharing held on August 25, Senator Packwood inquired about the number of additional positions which would be required by the Treasury Department to administer H.R. 13367, the House-passed bill to extend revenue sharing.

I would like to reaffirm and elaborate on my response at the time to Senator Packwood. The Treasury Department estimates that to administer H.R. 13367 as approved by the House, an increase of about 100 staff positions would be required at the Office of Revenue Sharing. This is almost a doubling of the fiscal year 1976 level of 108 authorized positions; 129 positions have been authorized for FY 1977.

It is easy to see that substantial increases would also have to be made to the funds made available to the Office of Revenue Sharing and the Bureau of the Census. This annual funding has ranged from about $5.4 million to about $11.4 million since FY 1973, depending on whether funds are transferred by Census to the Internal Revenue Service for data collection in a particular fiscal year.

The Treasury Department anticipates that its administrative responsibilities would be especially increased by the nondiscrimination, audit, and reporting and public participation provisions of H.R. 13367. Both Treasury and Census Bureau responsibilities would be expanded by the new recipient eligibility standards contained in H.R. 13367.

I hope that this information is helpful to the Committee on Finance. Please call upon me if I can be of further assistance.

Sincerely,

RICHARD R. ALBRECHT,
General Counsel.

Senator PACKWOOD. Lastly, from Senator Fannin, if the House provisions in the area of nondiscrimination are enacted, how will that affect Treasury with respect to review, analysis and policing of the problems involved?

Mr. ALBRECHT. Once again, the time limits that are imposed in the House-passed bill and the rather complicated set of procedures to be accomplished represent, in our mind, an unsuccessful effort to mandate greater enforcement.

We recognize the congressional desire to attain vigorous enforcement of the antidiscrimination provisions. We think, however, that those provisions would really require a multiplication of the staff with very little actual substantive effect overall.

We think that there are better ways to deal with that problem, and that the mechanics set up in the House-passed bill would create tremendous administrative burdens.

Senator PACKWOOD. Let me ask you this. In some respects, the administration bill, even though it is further than I would like to go, if we are really going to believe revenue sharing will work, that local government has any judgment and discretion, that is wise, it seems to me the few impediments put in their way, the better.

At a minimum, you are going to have to ask, Did they get the money; did they spend it. In good moral conscience, you are going to have to have some kind of civil rights string on this bill that is enforceable quickly. I am not quite sure how to do that. I hate to see us have hundreds of compliance officers, yet, if we leave it to the courts, we are going to be months and years in the courts.

The credible penalty is, for the recipient government to lose its money. The quicker that penalty can be imposed, the more likely our local governments will quit discriminating in the area of civil rights.

Mr. ALBRECHT. We ought to recognize that many of the local governments have a very good record in the area of civil rights.

The problem with an automatic suspension of funds is that very often what is needed to correct discrimination, or to correct the effects of past discrimination, is the ability to hire more people, to balance the payroll on behalf of the groups that have been discriminated against. If you cut off the money needed to do that, it is often counterproductive. Certainly, that is one reason why there is a reluctance to use that device.

I recognize, however, that withholding can be a very effective club.

Senator PACKWOOD. To cut off the money is the ultimate penalty, but that has not to be 3 or 4 years down the road in the local government's eye. It has to be a reasonable threat.

You come to the court, you say here is a plan. In 3 months, we can remedy it, in 6 months we can remedy it. If the court had the discretion to say, We can monitor your civil rights, keep the money going 3, 6 months, but at the end of that time, you had better comply, that would be satisfactory.

I hate to see us writing more and more restrictive provisions into revenue sharing. It will not take us more than three, four more extensions of this bill before we are back to a grant program.

I would like to do away with the restrictions in the present bill, except with the exception of civil rights.

Mr. ALBRECHT. What you describe involves a tremendous amount of discretion in administering the program. We think that is the way to proceed, and that the House bill does take a lot of that away.

Senator PACKWOOD. I have no further questions.

Senator HATHAWAY. Senator Byrd?

Senator BYRD. Thank you, Mr. Chairman.

I assume you would prefer, each of you would prefer, that the revenue sharing legislation be reenacted with no additional strings, Federal strings, attached.

Mr. DIXON. We would prefer that it be enacted in accordance with S. 1625.

Senator NELSON. I am sorry, I cannot hear you.

Mr. DIXON. Our preference is that it be enacted in accordance with provisions of S. 1625. That does, in a number of areas, as my testimony indicates, serve to strengthen some of the provisions of the existing bill.

Senator BYRD. You recommend additional Federal strings over and above what already exists, is that it?

Mr. ALBRECHT. I think, Senator, if one can describe the requirement for public participation and public hearings as additional strings, the answer to your question would be "Yes."

We have found that this was the one area where there seemed to be general agreement. There was not adequate public information at the local level about the way in which revenue sharing funds were being spent. There was criticism that Federal money was being spent without any participation by the local constituents who otherwise would be paying tax money. That can be met by this kind of provision.

Senator BYRD. Thank you.

Senator HATHAWAY. Senator Nelson?

Senator NELSON. Mr. Chairman, I would like to pursue the issue that you raised respecting the fungibility of these general revenue appropriations.

I am puzzled. On page 2, Mr. Secretary, the last paragraph, you state that—

> The administration is proposing one addition closely related requirement: that recipient units assure the Secretary of the Treasury that a public hearing or some appropriate alternative means is provided by which citizens may participate in decisions concerning the use of Revenue Sharing funds.
>
> This provision will help the Revenue Sharing program better accomplish its goals of bringing government closer to the people.

I go back to the issue raised by Senator Hathaway: Under the current law, there are certain categories through which these expenditures are authorized. Then, of course, the recipient municipality or State government, if they are going to comply, would have to keep some kind of separate identification of how the funds were spent.

The House bill proposes that all the categories be wiped out, so the State governments and the local governments may spend these funds for whatever purposes those units of government are authorized to spend their own revenues.

So the money now comes to the State or the municipality, as I think that it should, in my judgment, with no strings of this kind attached whatsoever. There are none in the House bill.

I agree with Senator Packwood on the civil rights question. Now the funds come to the unit of government, and you are saying in your testimony that the public should participate in decisions concerning the use of revenue sharing funds.

Assume for a moment that the funds go into a general fund. Now the municipality has a hearing on their budget, as they should, what in heavens name is the public going to testify on?

They can come and testify on the budget, I am trying to envision how they can testify on the ways in which revenue sharing funds are being spent in that case. Of course, they should be spent as authorized by State law and municipalities for the purposes for which their laws provide.

You cannot say in a budget of $5 million, $10 million or $15 million, that 7 percent of that is revenue sharing, now, let us discuss how we are going to spend it, can you?

Mr. DIXON. Only if there is an attempt to maintain separate accounting records of the receipt of the money and its flow to some other use.

Senator NELSON. The law does not require that, and the bill or the administration proposal, does not require it either, does it?

Mr. ALBRECHT. I submit that it does.

The House-passed bill did not eliminate the requirement that revenue sharing funds be used according to local law and did not limit the requirement that the recipient government report on how it has used the money.

There must still be some identification, albeit I recognize the point you make that all money is the same color when it comes down to the budget.

Senator NELSON. When they finally get to drafting the budget, is there a requirement—maybe I missed it—is there a requirement that if they decide to add five members to the police department that they have to say, now we are going to take enough money out of revenue sharing to hire one? We are now taking money out of the general tax revenues, sales tax, income tax, property tax, to hire the other four; and also we are going to expand the summer playground by 20 percent, and 5 percent of that money we are going to take from revenue sharing, and the other 15 percent we are going to take from property tax.

Are you saying that they have to do that under this law?

Mr. ALBRECHT. I believe that is correct, sir.

Senator NELSON. You do?

Mr. ALBRECHT. I believe that under the House-passed version they would have to report to Treasury how they had spent the money.

If they use it to hire one policeman and they had 5 percent——

Senator NELSON. As I understand it, the House bill does not require such identification. Are you saying that the bill does, in fact, imply that wherever they spend each dollar, they have to make out a little report and say, we took these revenue sharing funds and we put some in the social services, some in the playgrounds, some into schools, some into police. Is that what the bill says?

Mr. ALBRECHT. That is what it says. That is basically what is required now, except that the categories that have been reported to Treasury have been only the basic spending categories that are in the existing revenue sharing law.

The House eliminated those categories. You can now spend it on whatever you want to, based on the House-passed bill, but you still must report to us what you spend it for.

Senator NELSON. If that is correct, should we not knock that out of the bill?

Mr. ALBRECHT. It has been my impression throughout the course of the hearings involving the renewing of revenue sharing that there is a great deal of interest in knowing how the recipient governments have spent the money. Absent some reporting provisions such as this, Senator, I think that when any future renewal came up, there would

be a lot of concern about just what this money was going for, and an inability on our part to provide even as good an answer as we have been able to at this point.

Senator NELSON. Is it not a silly exercise? Suppose the municipality has a budget of $10 million, and its government has identified all of the areas in which it is going to spend it. In drawing up the budget all you have to do is recognize that of the $10 million in income, $1 million is general revenue sharing.

Are you saying that the city council must say: Okay, gentlemen, I move that we notify the Federal Government that 10 percent of the cost of social services in general revenue sharing, 20 percent is this, 20 percent is that, and that complies with the law.

Won't that add to the mountainous paperwork that the President and everybody else has been complaining about so much. What I am asking is, What is the sense to it?

If you want a categorical program, which I am opposed to, why do we not just say, we are going to give you x dollars, and you have to spend it in these areas, and tighten up the reporting and make them spend it there. I am opposed to deciding here in Washington what the social purpose of the local government is.

Just explain to me what you think is accomplished by that provision which advances the interests of the country, or the municipality, or the State?

Mr. ALBRECHT. The principal advantage gained is the ability to answer questions of the Congress and others who want to know, What did the Federal funds that were distributed go for?

Senator NELSON. I go back to the same point. Here is the budget. You have 50 categories of expenditures. You do not start out and have budget hearings and decide how shall we spend general revenue funds.

You start out and say, What are the needs of the community, and you decide that the needs of the community are such and such, and you name them, you identify them in the budget.

You have a public hearing. The public comes in, and says, we do not think you ought to spend this much for a particular purpose. You ought to spend more or less for various purposes.

When it is all done, the city council says, we are going to spend certain amounts on these 25 or 30 categories.

Now, suppose all they do is sit down and take the revenue sharing and apply exactly the same percentage to each item and send it to Washington.

Is there anything in the law that prevents that?

Mr. ALBRECHT. If that were the way it were done, your point is a very persuasive one.

Mr. DIXON. Yes; it is.

Senator NELSON. If that is not the way it should be done, how should it be done, if we are not going to tell them how to spend it? How should it be done?

Mr. ALBRECHT. If I were to assume that the local budgeting process of each of the 39,000 units of government who receive revenue sharing funds went through a budgeting process along the lines that you just described, then I probably would support your idea that we simply give them money and tell them to spend it anywhere they want to, as

long as it is spent in conformance with the way they spend their local funds.

Senator NELSON. They are going to spend it any way they want to under the present proposal, if you accept what I say, about the design of the budget. So I say, why go through the paperwork exercise of having them assign a revenue sharing dollar figure to each budget category?

Supposing they said, here comes $1 million from the Federal Government. We have looked over everything, and we are cutting the spending of the municipality by $1 million.

Is that authorized in the law?

Mr. ALBRECHT. It is.

Senator NELSON. Are they going to have to identify where the revenue sharing was applied to make the cuts.

Mr. ALBRECHT. We would ask them to inform the Federal Government that they had used the revenue sharing funds to reduce local taxes.

Senator NELSON. Are you going to say, now you have to identify where they made the cuts and what they substituted revenue sharing for?

Mr. ALBRECHT. No, sir. I do not believe that the House-passed version would require that.

Senator NELSON. Do you agree with me that all they have to do is make out their budget however they desire to make it out, have a hearing, and invite people to testify on what the budget should be, and when they get all done and make all the categories and simply assign x percent of the revenue sharing dollar; or are you asking them to go through an additional process—how does it go? Report on the use of funds requires a recipient jurisdiction to outline in their proposed use reports how they expect to spend their allotments, which already we can see does not mean anything, and also to provide comparative data on how the funds were spent during the previous two entitlement periods.

Under present law, as you know, the previous two entitlement periods, starting now, required a categorical report.

Now, I am quoting again:

> Both the proposed use reports and the actual use reports must compare the use of GRS funds to relevant functional items in the local budget. Further, the AUR is required to explain all differences between how a local government had proposed to use its GRS funds and how it actually spent them during an entitlement period.

What kind of gobbledygook is that? Tell me what it means, and why, and give me an explanation on why we ought to do it.

This is outrageous. What we are doing, we are taking the great, big Federal Government and saying, let's go out and shuffle a lot of papers, folks. To me, that system has no purpose at all but to drive everyone out of his mind.

Mr. ALBRECHT. I have a great deal of sympathy with what the Senator is saying. The provision that you just described represents the effort of the House of Representatives to try to assure that the people, who were supposed to have an idea of how revenue sharing was supposed to be spent, had some way to put it in perspective. This is what

was designed in the Committee on Government Operations of the House of Representatives.

Senator NELSON. Do you agree that we should knock that all out of there?

Mr. ALBRECHT. I would support knocking that kind of provision out, Senator. I think that in your hypothetical, however, we really have not gotten to some units of Government that have special earmarked local funds, or that do not necessarily adopt a budget all at one time after a given public hearing, or that have limitations on the use of local revenues for capital projects. There were, in a number of hearings, examples given of the use of revenue sharing to fund a capital project that had been turned down by the local voters in a referendum. They decided that they did not want to spend their own money for a particular capital project, and then later it was apparently put underway with revenue sharing funds.

Senator NELSON. Let me ask a question.

Would any of this reporting prevent an allocation like that? All the municipality would do, is classify the revenue sharing money as part of the general fund, so now if they want to add, put some money in some program that relieves a certain amount of local money to go to another use, they can do that, can they not?

Mr. ALBRECHT. None of this would prevent it. What it would do, if I could use Senator Hathaway's word, is to put some sunshine on it. It would make it visible, and the entire community would know that it was being done.

Senator NELSON. Why would that be? Because of public hearings?

Mr. ALBRECHT. Yes.

Senator NELSON. Nobody would quarrel about a public hearing. It is all right to say that there must be a public hearing on the budget. Fine. But do not try to identify where that dollar went. How can you possibly do that?

Mr. ALBRECHT. Senator, you used the term "public hearing on the budget", and I would use the term "a public hearing on the use of revenue sharing funds", because the capital budget may be considered entirely separately from the operations and maintenance budget. Yet if revenue sharing funds were used for a capital project, as I just described, I think that the public would be entitled to know that.

I suspect what we are talking about is differences which could be resolved with drafting language.

Senator HATHAWAY. Do you say there should not be any public hearings on capital?

Mr. ALBRECHT. I am saying there should be a public hearing on the use of revenue sharing funds.

Senator HATHAWAY. Our point is, you cannot tell where revenue sharing funds are being used, because it is a bookkeeping entry. They decide after that how the revenue sharing funds are used.

Mr. ALBRECHT. I think there are some instances in local government when the restrictions on the use of local funds might suggest that the use of revenue sharing funds could be isolated.

Senator NELSON. Let me clarify something. When the general revenue sharing funds come, are they not subject to the same disposal as any other municipal funds?

Mr. ALBRECHT. Yes.

Senator NELSON. You mentioned the case, I think, a municipality may have turned down some capital expenditure, then the city council might go ahead and use general revenue sharing for that.

Mr. ALBRECHT. Yes.

Senator NELSON. Why not let them do it?

Mr. ALBRECHT. I do not believe that the Federal Government should prohibit them from doing it. I think only that we should have in the revenue sharing bill a provision that assures——

Senator NELSON. Why do we care? What does big Uncle Sam, Big Brother here in Washington, care what they do?

If the local municipality turns down a project and they were able to take general revenue sharing funds and fund that project, fine.

If, at the next election, the people in that municipality reelect them the citizens would have ratified that action. Who are we to tell them how they are to run their local government?

If they want a lousy government, that is their business. It just gets worse than it is if we are intruding to tell them how to run the damn thing.

I do not understand this at all.

Mr. ALBRECHT. You make a very persuasive argument, Senator.

Senator NELSON. I have taken more time than I should.

Senator HATHAWAY. Senator Roth?

Senator ROTH. I am concerned about the provision that was added in the House legislation that included for the first time the word "religion." I do not believe in your testimony that you touched upon this problem.

It seems to me that the addition of that word would create serious administrative problems and defeat much of the intent of revenue sharing.

I propose to offer at a later time an amendment to eliminate the word "religion." Would you care to comment on that?

Mr. DIXON. Yes, Senator.

The inclusion of the word "religion" is something that quite honestly the administration has not focused on adequately before and is giving a great deal of thought to that now.

Senator ROTH. I think the time has come for action on the part of the administration. What is the earliest possible time we can have an administration position on this?

Mr. ALBRECHT. It is our understanding that the committee intends to take up this legislation tomorrow. We would certainly be prepared to indicate whether we will support your position at that time.

Senator ROTH. I would like to emphasize to the administration that what the House did—I think they have muddied the waters very badly.

It would be a very serious error to continue in the legislation the proposal of the House at this time.

I might say that I have received letters from the Catholic hierarchy, Jewish groups, and others and I do not see any substantial reason for including the word "religion."

Did you have any problems with the existing language?

Mr. ALBRECHT. No.

I think, Senator, the addition of religion was done really without focusing on the problem. We received some of the same communications.

Senator ROTH. I do not question the basic goal or intent of the House side. I just do not think they knew what they were doing.

I do not think that either the debate on the House floor or the language that they incorporated corrected the problem. It seems to me that it has made it worse.

I think we have to have a very clear-cut provision—it seems to me that the best way is to eliminate the word "religion."

I am also concerned about, as you pointed out, the word "handicapped." I am not sure what the impact of that would be or what that means.

For example, if we have a program especially directed at the handicapped but not to other citizens, would that create a problem under the House language?

Mr. ALBRECHT. We think that both with respect to aged and the handicapped, these are areas in which nondiscrimination provisions in other programs are receiving a lot of scrutiny and testing now to determine how you measure standards for determining what is discrimination. For that reason, we think that at this time those provisions in here are likely to cause some considerable administrative problems.

Senator ROTH. I do not think there is any question about that. As far as I am concerned, I strongly support any effort to provide more help to the handicapped. However, I am worried that this is a two-edged sword that could cut the wrong way.

We are going to meet on this tomorrow. I think that it is very important that we clarify our intent so that it does not end up in the courts to be resolved. The Congress has a responsibility to clearly define this section of the law.

I think both of these words as well as age raise very serious questions.

I have another question here.

The House bill would require the Secretary of the Treasury, the Governor, and the chief executive officer of a governmental jurisdiction to approve an agreement to correct any discrimination prior to having revenue sharing funds restored to them, once the funds have been cut off.

Do you feel that the political and administrative problem involved in that provision is insurmountable?

Mr. ALBRECHT. Requiring the Governor of the State?

Mr. ROTH. The Secretary of the Treasury, the Governor, and the chief executive officer of the governmental jurisdiction to approve of the correction.

Mr. ALBRECHT. Certainly involving the Governor at that level and that step in the process probably has some potential for clogging down a settlement in the politics of the local State.

We would favor not putting that kind of restrictive provision in the legislation.

Senator ROTH. Perhaps it is desirable but the problem appears to me that you would be cutting off funds and hurting some innocent people in the process.

Mr. ALBRECHT. It has the potential for that. It also has the potential for considerations other than the merits of the case entering into whether or not funds were later released.

Senator ROTH. That is all the questions I had, Mr. Chairman.

I do want to urge that we have to clarify these problems tomorrow. I know of no better way than just to eliminate the word.

Senator BYRD [presiding]. Thank you, gentlemen.

[The prepared statement of Mr. Dixon follows:]

STATEMENT OF HON. GEORGE H. DIXON, DEPUTY SECRETARY OF THE TREASURY

Mr. Chairman, I am pleased to appear here today, as Acting Secretary of the Treasury, to testify in support of S. 1625, President Ford's proposal to renew the General Revenue Sharing program. The Administration believes that revenue sharing has worked exceptionally well in responding to the needs which it was designed to meet. We strongly urge that the program be continued in its broad general outlines, as proposed by the President in his message to Congress in April of 1975.

Since General Revenue Sharing was enacted in 1972, it has made available over $26 billion to States and communities throughout the Nation. These funds have done much to strengthen the viability of our Federal system of Government, a system that is predicated upon the shared exercise of powers and responsibilities. Revenue Sharing has contributed to a revitalized Federalism by shifting some resources to those governments closest to the people, where there is often a clearer perception of the needs of citizens. Simply put, some tasks are better performed by State and local governments, instead of being directed from Washington.

Revenue Sharing has placed funds where need exists. It has given a greater measure of assistance to our hard-pressed center cities than it has to their more prosperous suburbs. It has aided low income States relatively more than those with higher income populations.

The program has been free of the costly, and sometimes counter-productive, bureaucratic red tape associated with Federal aid programs. Small and rural communities, which often benefit little from other Federal assistance, can participate in revenue sharing without engaging in expensive and highly competitive "grantsmanship."

Mr. Chairman, we believe that upon evaluation the Committee will find that S. 1625, the Administration's renewal proposal, is balanced and well reasoned. It leaves unaltered what has worked and offers improvements in the areas of public participation, reporting and publicity, civil rights, and allocation of funds where experience has shown that change will enhance the program.

S. 1625 would extend the funding of General Revenue Sharing for five and three quarter years—a time frame which assures sufficient certainty to state and local recipients while permitting further Congressional and Presidential review of the program's performance.

The Administration bill does propose one important modification in the formula—lifting the 145% maximum per capita constraint on local entitlements to 175% in five increments of six percentage points each. This amendment would direct more money into some needy large cities and, coupled with the proposed $150 million annual funding increments, would not cause a net dollar loss in funding to more than a handful of jurisdictions now benefiting from the constraints.

In the civil rights area, our renewal proposal would provide the Office of Revenue Sharing with a more flexible array of sanctions to be used where needed to achieve compliance. This change is necessary to assure that flexibility exists to withhold all or part of a government's entitlement. It can be argued that the existing statutory framework does not permit partial withholding.

Along with the non-discrimination requirement, reporting and publicity standards are other major Federal restrictions attached to use of General Revenue Sharing entitlements. We believe it is important to improve their effectiveness. S. 1625 would give more discretion to the Secretary of the Treasury to prescribe reporting and publicity requirements that are varied by type of recipent government. This will improve the availability and quality of information while not imposing unneeded burdens on our States and communities.

The Administration is proposing one additional closely-related requirement: That recipient units assure the Secretary of the Treasury that a public hearing or some appropriate alternative means is provided by which citizens may par-

ticipate in decisions concerning the use of revenue sharing funds. This provision will help the revenue sharing program better accomplish its goal of bringing government closer to the people.

We think that the changes we are urging in these areas will serve their purpose without putting an unnecessary burden on States and communities of diverse size and with varied political processes. Strict and pervasive requirements are contrary to the goals of the General Revenue Sharing program and would reduce its effectiveness.

As this Committee is fully aware, the House of Representatives has passed H.R. 13367, which would extend the General Revenue Sharing program for three-and-three-quarter years. The Administration's reaction to the House action was summarized by President Ford on June 10th. He expressed his pleasure that the House had voted to extend the program in a manner which preserved the basic concepts of revenue sharing. The President urged, however, that the Senate examine the House bill in light of the recommendations contained in S. 1625.

The basic differences between the Administration's renewal measure and the legislation passed by the House can be summarized as follows:

The Administration has recommended extension for five-and-three-quarter years, while the House bill would only continue the program for three-and-three-quarter years.

S. 1625, the Administration bill, would raise the maximum per capita constraint gradually to 175%. The House bill would continue the constraint at 145%.

The Administration measure would continue to provide for a $150 million annual increase in funding while the House bill would freeze funding at $6.65 billion annually.

The House bill would set new standards of eligibility for jurisdictions to participate in the program while the Administration would continue the present standards.

H.R. 13367 would greatly expand Federal requirements governing the manner in which States and localities publicize and report receipt and use of revenue sharing funds. The Administration proposal, while requiring public hearings, takes a much more flexible approach in these areas.

The House passed bill mandates new statutory standards in the civil rights area. The non-discrimination sanctions of the current law are to be applied to all activities of a government unless it can be shown by "clear and convincing evidence" that shared funds are not involved "directly or indirectly" in a discriminatory activity. In addition, certain administrative actions have to take place within specific statutory time limits. The Administration bill, while strengthening the Secretary's enforcement powers, would not further expand the existing broad prohibition against discrimination in activities funded through revenue sharing and does not set a statutory timetable.

I would like to discuss the differences in approach I have noted and state the reasons we prefer the Administration's recommendations.

If revenue sharing funds are to be spent wisely, it is important that recipients have assurance that a level of funds will be available to them over time. At the same time, there is a need to periodically re-evaluate the program. The Administration considers the five-and three-quarter year authorization as an appropriate balancing of these concerns.

The continuation of the $150 million annual increases in the level of funding also makes good sense. It provides a cushion against inflation and, by placing a little more money in the pot, reduces the impact of reductions on recipients whose entitlements are lowered by data changes or the proposed changes in the maximum constraint.

The Administration strongly urges that the Senate eliminate Section 7 of HR 13367, which sets new standards of eligibility for recipient participation in the GRS program. While we recognize the desirability of restricting eligibility to truly active and general purpose governments, we do not believe that the House bill, or any other proposal we have seen to date, does so effectively. Essentially Section 7 would have little impact, yet it would place considerable administrative burden on the Census Bureau and the Treasury Department. Further, no serious inequity results from the distribution of small sums of shared funds to those governments considered by some to be relatively inactive.

We believe that the burden created by the new publicity, reporting, public participation, and auditing requirements in HR 13367, far exceeds their positive impact. The expanded and detailed standards set forth are onerous and would be costly to both recipients and the Federal Government.

A careful look at the requirements of the House bill will show that the changes proposed are detrimental. Revenue sharing would lose much of its attractiveness as a simple and efficient Federal assistance program. While some discretion is given to the Secretary of the Treasury to waive certain requirements in the House bill, this limited flexibility does not cure many of the difficulties we foresee. Let me quickly touch upon some of the changes that would be mandated by the House:

Greatly expanded Proposed and Actual Use Reports; a new summary on the proposed official budget of the recipient; a narrative on the adopted budget. These documents must be published and made available to the public.

Two public hearings—one on the Proposed Use Report and one relating revenue sharing funds to the entire budget would also be required of many governments.

An annual audit of all of a recipient's jurisdictions' accounts in accordance with "generally accepted" audit standards.

The non-discrimination provisions of HR 13367 would change the legal requirements under which the revenue sharing program operates. The new burden of proof which has been added to the statute would lead to substantial uncertainty. In addition, Section 9 of the House measure would require Treasury's response within statutory time limits to findings by other Federal agencies, State agencies, and Federal and State courts. This response, as well as other Treasury actions, would have to take place within specific statutory time limits and could lead to a cutoff of revenue sharing funds.

The prohibition against discrimination in the current revenue sharing statute is straight-forward and adequate. To be sure , the Office of Revenue Sharing has been criticized for delays in the processing of civil rights complaints. The problem, however, does not stem from inadequate authority but has largely resulted from lack of resources. We are committed to correct that situation and substantial progress has been made.

In summary, the House-passed bill to extend revenue sharing clearly contemplates much greater costs and restrictions being placed on recipient governments than the program we know today. Similarly, revenue sharing would no longer be a Federal domestic assistance program with a very low cost of administration.

The Administration urges extension of revenue sharing as proposed in S. 1625—without cumbersome new constraints. The vitality of our Federal system of decentralized government requires prompt passage of this important renewal legislation.

Mr. Chairman, my colleagues and I will be happy to answer any questions which you may have.

Senator BYRD. The next witnesses will be a panel consisting of the Honorable Patrick J. Lucey, Governor of Wisconsin, on behalf of the National Governors' Conference; the Honorable W. W. Dumas, mayor-president, Baton Rouge, La., on behalf of the National Association of Counties; the Honorable Martin A. Sabo, speaker, House of Representatives of Minnesota on behalf of the National Conference of State Legislatures; the Honorable John Poelker, mayor, St. Louis, Mo., on behalf of the National League of Cities; the Honorable Kennth Gibson, mayor, Newark, N.J., on behalf of the U.S. Conference of Mayors.

The order in which the panel will address the Senate Committee will be as follows: Governor Lucey, Mayor Gibson, Mayor Poelker, Speaker Sabo, and Mr. Dumas.

Senator NELSON. Mr. Chairman, I am pleased to welcome the Governor of the State of Wisconsin, Patrick Lucey, who is appearing as chairman of the Committee on Executive Management and Fiscal Affairs of the National Governors' Conference.

We are happy to have you here this morning, at least I am.

STATEMENT OF HON. PATRICK LUCEY, GOVERNOR OF THE STATE OF WISCONSIN, ON BEHALF OF THE NATIONAL GOVERNORS' CONFERENCE

Governor LUCEY. I want to express my appreciation to the chairman and members of the Committee on Finance for giving us this opportunity to come here in public hearing to testify in support of general revenue sharing.

As I sit here with mayors, and members of State legislatures, and people representing other levels of local government, it seems to me that it is somewhat an unusual situation, because very often there are sharp disagreements between State governments and local units of government.

I must say on this one issue, on revenue sharing, we are of one mind, and we support the continuation of revenue sharing.

We feel that the House bill, 13367, contains the essential elements of an effective revenue sharing bill. We do think it could be improved, and we hope, as we said, that it will have improvement.

There has been a tendency to sort of relax after the House action. It came so quickly, when it finally did come, that a lot of people sort of assumed that the battle was over, and while we have felt all along that we have many more friends on the Senate side, we do recognize that the time is short and already many local units of government on calendar year budgets are beginning to prepare those budgets and soon will be determining what kind of tax levy they need for calendar 1977.

It would certainly be a tragic thing if some of them established levies in excess of their needs simply because they could not be sure that the general revenue sharing funds would be available to them, and could be folded into those budgets.

The House bill retains the distribution formula with which all the people of this table are supportive of. It does eliminate the priority expenditure provisions that I think, in some instances, has worked a hardship.

For instance, while at the State level in Wisconsin we use all of our State share for the school aid formula, local units of government were unable to use any of the money for education, so that I think that the elimination of that provision in the present law is probably desirable.

Senator NELSON. May I ask a question? In Wisconsin, is it true that every dollar of the State's share, which is approximately one-third, is simply funneled right straight from the State treasury to the local school districts?

Governor LUCEY. By a formula that provides for equalization.

In other words, our total appropriation for elementary and secondary education for the biennium is in excess of $1 billion. Of that amount, roughly $52 million a year that we receive in general revenue sharing is simply part of that item in our budget.

Senator NELSON. Does that mean it is all spent on education?

Governor LUCEY. All of the State's share is spent for elementary and secondary education.

Senator ROTH. What was your proposal?

Governor LUCEY. I was just commenting on the House version, and I said that at the present time, it is my understanding that the local share might not be used for education.

I applaud the fact that that list of priority expenditures has been eliminated.

Senator ROTH. For local government?

Governor LUCEY. Exactly, so that if a city is running a school district and they want to use some of the money for education, they have the privilege of doing that.

I support that. I also think that the prohibition of the revenue sharing funds for a match with other Federal dollars is desirable and certainly advanced funding.

I would have hoped that the bill would have gone a little further in terms of the amount of funding. It seems to me that there ought to be some allowance for the inflation that continues to plague us, even if it were at the 5 percent that President Ford proposed, it would certainly be better than a flat rate for the 3¾ years.

I also would support the administration's position that it would be advisable to have it for 5¾ years rather than 3¾.

Most States, at least 19, are on a biennial budget. This means that 3¾ years, we have the money for the first 6 months of the next calendar year in Wisconsin, which we just sort of assumed we would have, and went along on that basis when we prepared our last budget. We will be fully funded for the new biennium, which will start July 1, but when we start preparing for the biennium following that, there will be some uncertainty as to the Federal revenue sharing. So that the 5¾ years would put us in step with the new fiscal year of the Federal Government. It would give us the leadtime that would get us through two biennium years rather than one.

I think that there are three sections of the bill that I would like to touch on, just very briefly here, and before I do, I would like to invite the attention of the members of the committee to something that has just been published by the National Governors' Conference, and it has to do with Federal roadblocks to efficient State government, and I have sufficient copies here for the committee.

This shows what is happening to many of the categorical programs once they get on the books, partly to additional legislation, partly to interpretation by the Federal bureaucracy, partly due to responses to court orders, they become more and more entwined in redtape, and as a result, more and more of the money goes for auditors and administrators and for people who are skilled in grantsmanship, rather than serving the citizen group that was supposed to be served by the program.

In contrast, I would like to point out that perhaps the people from Treasury have already mentioned this, that the Federal revenue sharing administrative cost here at the Washington level is less than one-twelfth of 1 percent of all of the money that is dispersed.

Ms. Tulley is here, the administrator of the program. She tells me that she has fewer than 100 employees in administering this entire program.

I think that it is commendable, and I would urge upon the Senate the elimination of any redtape that is contained in the House bill that would force Ms. Tulley to employ additional people and skim off a greater portion of the Federal revenue sharing dollars for administration here at the Washington level.

I think, too, that it ought to be pointed out that every time that you require us to make an additional report, it means that you are adding people at both ends, because we have to prepare the reports, hire the people to do that, and here at the Washington level, you have to hire people to at least read the reports or file them or do whatever you do with them when they get here.

I do think it is commendable to require citizen participation, and I would think that it is appropriate for some form of reporting so that the people in Washington will at least know whether the money simply became a percentage of the budget, as was pointed out is often the case, or whether the money is used for capital expenditures, or whether it is used for specific social programs.

But beyond that, it seems to me that a great deal of reporting could be dispensed with.

I think also on the requirements for audit, while I think it is entirely appropriate that there ought to be audits, I think that the requirement of the House bill is excessive in that it calls for annual audits.

Most governmental bodies do not have an annual audit. In State government, we try to get to every agency at least once every few years.

It would be an excessive requirement, I think, to require annual audits.

I think also in the matter of reports and audits, it is important that they are compatible with whatever the fiscal period is, that the unit of government has, and not on the basis of the entitlement period.

Senator NELSON. If I may interrupt, for all practical purposes, the way the State governments have, it is a categorical program. It all goes to education. The State has decided——

Governor LUCEY. That is right.

Senator NELSON. Tell me this:

Is there any general way in which the money has been used by other States? Has it gone into general funds for appropriations for general State purposes? Do some do that, and some have various categorical programs, such as the State of Wisconsin?

Governor LUCEY. I think that there is a wide variation in how it is used at the State level, and even a broader variation in terms of local units of government.

The Brookings Institution has done a very thorough oversight of the program and it covered, I think, at least the first 3 years.

It was published about 1 year ago.

I do not know if that is a continuing study, or not. I am sure that they could give you a complete breakdown, State by State, and covering a great many of the municipalities.

Senator NELSON. That is under the first 5-year program that specified and delineated the categories in which State and local governments may spend. Henceforth, that will not be so.

So on the question of audit, are you suggesting that—say a State receives x millions of dollars and the question of how it will be spent goes to the legislature—the finance committee of the legislature is going to have to argue about where that general revenue sharing went after it goes from the assembly to the senate, and then to a confer-

ence committee, maybe, and then to the Governor, and all the time you are trying to trace how you spent that general revenue sharing?

Do you think that kind of report would be needed?

Governor LUCEY. No; I do not. I do not think that would be productive at all.

In the case of Wisconsin, we can report our expenditure of the money that is retained at the State level in one sentence: it simply goes into the school aid formula.

Senator NELSON. That is a simple one.

Supposing the State of Wisconsin decided that all $52 million should go to the general fund for purposes of reducing taxes by $52 million.

Should you have to be audited to trace where you used that $52 million to reduce what program? How would you do that?

Governor LUCEY. I do not know how you would do that.

Senator NELSON. Do you think they should have to do it?

Governor LUCEY. I assume that the Congress is going to require some sort of audit or report.

Senator NELSON. I hope what the Congress will do is something rational.

Governor LUCEY. I think the rational way to handle general revenue sharing was simply to leave the money on a stump and walk away from it

Senator NELSON. Let the legislature or the Governor or the mayor or city council handle the money?

Governor LUCEY. Revenue sharing, by its very nature, is an expression of mutual trust, and I think that State and local government has progressed a long way in being able to sort out what the priorities ought to be, and use moneys that are provided efficiently, whether they come through general revenue sharing, or local taxation.

I also think that when you take the general revenue sharing and put it into the general pot that you probably will see a more efficient use of that money than any other Federal money that comes in, because so often when it is categorical money, we are forced to distort our priorities, or thinking up new names for what we have been doing all along to justify the use of the money.

General revenue sharing we regard with the same caution, the same austerity, that we do other money that we have to levy through the State income tax

Senator NELSON. The conception of the House seems to have been that revenue sharing dollars are responsible dollars and those that the legislature spends otherwise are irresponsible dollars, therefore we want to keep track of at least 7 percent of that budget as responsible dollars, and let the 93 percent be irresponsible dollars.

That seems to be the concept on which that system of reports in the House bill is based.

Senator BROCK. Are you not really saying, Governor, that the same people that elect us elect the people at the local level. Why do we not have confidence in the people?

Governor LUCEY. That is what it amounts to, Senator.

Senator BROCK. Why do we have to come back with another audit on top of the audit that they are going to have to do there anyway.

Governor LUCEY. We did a study recently in Wisconsin. We are sort of the grandfathers of revenue sharing. We have been sharing revenue, unfettered money, with local units at the State level since 1911.

As a matter of fact, at the present time, for every $1 the local units in Wisconsin receive in Federal revenue sharing, they receive $4 in State revenue sharing.

Since 1911, we have never had any great distress about the lack of audit or where the money goes. Our tax sharing formula to the local units of government becomes part of their budget.

Senator NELSON. Let me say on that, that 50 cents out of every income tax dollar paid goes back to the municipality of the taxpayers who paid it. That was the way in previous years anyway, and then an additional 10 cents to the county.

Senator BROCK. In Wisconsin?

Senator NELSON. Yes.

We have one of the highest income taxes in the country. Fifty cents goes to the local municipality. In my 10 years in the local legislature, and 4 years as Governor, I never heard a single legislator or a single citizen say why do we not find out how those municipalities are spending that money.

It was their business. They knew better how to spend it than our legislature, just as our legislature knows how to spend it better than this Congress. It worked very well.

We have good government in the State of Wisconsin.

If the municipality wants to spend the 50 cents out of the $1 on some project that you and I think is foolish, that is their business.

We are not the ones, and we should not be the ones setting up ourselves to decide what is foolish or not foolish down here in Washington on this program.

Governor LUCEY. I think I will conclude my formal presentation with that.

I believe that Mayor Gibson is next in line.

Senator HATHAWAY [presiding]. Mayor Gibson.

STATEMENT OF HON. KENNETH GIBSON, MAYOR, NEWARK, N.J., ON BEHALF OF THE U.S. CONFERENCE OF MAYORS

Mr. GIBSON. Thank you, Mr. Chairman and members of the committee.

I am Kenneth Gibson, mayor of the city of Newark and president of the U.S. Conference of Mayors, the national spokesman of the mayors of virtually all of the cities with populations in excess of 30,000. On behalf of the Nation's mayors, I am here today to endorse the immediate reenactment of the State and Local Fiscal Assistance Act of 1972.

As you will recall, when this act was first being debated in Congress, I traveled to Washington on many occasions to join in the debate to urge passage. I am indeed pleased to be here today to share with you our views on this vital urban program. Without this committee's leadership in 1972, we would not have been successful in passing this act. Your continued support and leadership are the key to a successful reenactment effort.

The Conference of Mayors was an early and active proponent of general revenue sharing. The Nation's mayors joined with other local and State officials to achieve enactment of the program in 1972.

Local and elected officials united in 1972 and we are united today in calling for an extension of the local revenue sharing program. We believe that the program has been a good one, and is indeed worthy of continuation.

In most instances, revenue sharing moneys have been used to develop and implement programs that have been responsive to the needs at the local level.

The objectives of the program have been, by and large, achieved. That is why, in July of this year, at the 44th annual meeting of the U.S. Conference of Mayors, we reaffirmed our policy which strongly endorses the continuation of the general revenue sharing program and calls for its immediate renewal.

A copy of this policy resolution is attached to my written statement, which has been submitted for the official hearing transcript.

I would like to highlight only two elements of the U.S. Conference of Mayor's policy. First, the level of funding.

The Conference of Mayors is deeply concerned that the administration's renewal proposal provides for only a modest $150 million annual increment in revenue sharing funds.

This translates into an annual rate of increase of a mere 2½ percent. This is what the current program has been providing, and it has been demonstrated to be inadequate in light of the strong inflationary pressures which are impacting local budgets.

Even if the cost of living index declines, the city governments will not get as much relief as the private sector, because the packages of goods and services purchased by State and local governments is much more inflation prone than those items used in calculating the general cost of living index.

We can look forward then, to persistent high rates of inflation, at least five times greater than the 2½-percent current and proposed revenue sharing growth factor.

Documentation exists which reveals that between 1972 and 1974, the cities, counties and townships lost about $3.3 billion of purchasing power, due to inflation. This is equivalent to 80 percent of their total revenue sharing entitlement in 1974.

Local governments heavy reliance on a tax base which lags far behind inflationary pressures, coupled with the fact that Federal fiscal assistance has not kept pace with soaring costs, have had disastrous effects on our city residents.

The capacity of many cities to provide essential public services has been seriously undermined, and we cannot expose our residents to further hardships.

The U.S. Conference of Mayors, therefore, strongly recommends that the funding level of general revenue sharing be sufficient to compensate State and local governments for the higher costs that they face.

We urge that the annual increment in these funds be increased to not less than $350 million. This translates into a growth rate of 5 percent, a rate more in keeping with what inflation projections really are.

The second point that I would like to make is one of multiyear extension of the program.

The U.S. Conference of Mayors strongly endorses a 5¾-year extension of the program. This length of time would provide the necessary long-term commitment to State and local government.

Without this long-term Federal commitment, the budgetary planning processes of State and local government would suffer. Priority setting would be rather short ranged, and the programs developed to meet these priorities would be viewed as transitory rather than permanent.

During the past 4 years, we have found that the guarantee of general revenue sharing funding has motivated many cities to examine their priorities in a multiyear context. We have developed some long-range strategies in dealing with some of our problems.

The uncertainty connected with a short-term Federal commitment would surely undermine a city's ability to deal effectively with the nature of urban problems.

The Conference also recommends that the Congress begin its consideration of the future extension of the program at least 2 years prior to the expiration of the existing law.

Local budgetary planning has been severely disrupted during the past year because of Federal legislative inaction. Congress' delay in reenacting general revenue sharing has particularly hurt those cities which budget on a July 1 fiscal year. They have been forced to adopt budgets for an entire year that contain only 6 months of revenue sharing money.

These cities had no other choice, since they did not know whether the program would be continued, or if continued, whether it would be substantially altered.

If we are ever to achieve long-range program planning at the local level, we must have some degree of certainty from the Federal Government about the future of major programs, such as general revenue sharing.

This certainty could be obtained if Federal legislative consideration on the future extension of the program began at least 2 years prior to the expiration of the existing law.

Mr. Chairman and gentlemen, I would like to conclude my remarks by reaffirming our commitment, the mayor's commitment to the general revenue sharing program.

We believe that it is essential to a healthy urban America and a vital link in our intergovernmental fiscal system.

We feel that we have expended and accounted for these funds in sound and uniform methods.

We feel the program has survived its "testing" period quite successfully. We look forward to working with this committee, and with the Senate, on this very important piece of legislation.

The U.S. Conference of Mayors hopes that you will move decisively in the next few weeks to insure immediate enactment of the general revenue sharing program, and that the final legislative package will reflect the suggestions and recommendations that I have expressed today.

Thank you.

Senator NELSON [presiding]. Thank you, Mayor Gibson.

Our next witness will be Mr. John Poelker, mayor of St. Louis, Mo., representing the National League of Cities.

Mayor Poelker?

STATEMENT OF HON. JOHN POELKER, MAYOR OF ST. LOUIS, MO., ON BEHALF OF THE NATIONAL LEAGUE OF CITIES

Mr. POELKER. Thank you, Senator Nelson and members of the Finance Committee.

I am John Poelker, mayor of St. Louis, Mo., and I am testifying on behalf of the National League of Cities.

The National League of Cities represents nearly 15,000 cities, and earlier this year, the league's board of directors on which I serve, established the reenactment of the general revenue sharing program as the highest legislative priority of the Nation's cities.

On behalf of our entire membership, I wish to commend the Finance Committee for its prompt consideration of this vitally important legislation.

I would like to submit for the record a copy of the National League of Cities' revenue sharing policy statement. This policy was developed by NLC's Revenue Sharing Task Force which is cochaired by Mayor Moon Landrieu, of New Orleans and myself.

It was presented to, and unanimously ratified by, the full membership of the National League of Cities at our annual convention.

Since our convention, the revenue sharing task force has continued to meet to further develop and refine the policy of the organization. The task force looks forward to playing an active role in the Senate proceedings and stands ready to assist this committee and the Congress in achieving reenactment.

In support of the other testimony given here today, I would like to discuss the most important feature of the general revenue sharing program; namely, its ability to provide long range funding without the roller-coaster effect of the annual appropriations process.

The existing program, as you know, is operated as a trust fund, and the money has been available to State and local governments on a guaranteed basis.

We realize, however, that since 1972, Congress has taken many steps toward reforming its own budgetary procedure, the most important being the massive and successful implementation of the Congressional Impoundment and Control Act of 1974.

Revenue sharing has generated a great deal of controversy because of its trust fund form of financing, and many critics have argued that it should be placed on the annual appropriations process. Some argue that the new congressional budget process mandates that jurisdiction be given to the Appropriations Committee.

These critics have not taken time to study the options available under the Budget Reform Act. They do not understand that the choice is no longer between annual appropriation or trust fund financing.

Our position on this critical issue is unanimous. We urge the Senate to adopt the entitlement financing mechanism contained in the House bill.

Entitlement financing will provide long-term funding completely within the context of the Budget Reform Act.

Unfortunately, there has been a great deal of misunderstanding even regarding entitlement financing. There are those that argue that entitlement financing is a form of backdoor spending that violates both the Budget Reform Act and the prerogative of the Appropriations Committee.

This is not true.

In order to clarify the situation, let me briefly review some of its key points.

First, entitlement financing is a recognized form of spending under the Budget Reform Act. Section 401(c)(2) of the Budget Act defines entitlement financing as the authority to make payments to any person or government.

Second, entitlement financing is not a form of so-called backdoor spending. It is subject to carefully defined procedures.

Let me give you this example. Entitlement legislation is not exempt from any provision of the congressional budget process. It must compete, of course, with all other programs of spending in the congressional budget resolution. It must abide by the calendar requirements established by the Budget Act.

All new entitlement legislation emerging from committee must be referred to the Appropriations Committee, if the legislation generates spending over and above the spending in the most recent budget resolution. The Appropriations Committee is given 15 days to review the legislation, after which it must report the bill to the Senate floor.

An amendment to the entitlement legislation may be offered by the Appropriations Committee, and may accompany the bill to the floor.

The committee amendment, however, can only pertain to the funding level, and not to other provisions of the entitlement legislation.

Once on the floor, the Appropriations Committee amendments, if any, are voted upon, followed by a vote on the entitlement legislation.

Once an entitlement bill has been enacted into law, payments are automatically made for the duration of the program.

Finally, entitlement financing would not prevent congressional review and scrutiny of the revenue sharing program itself. While, it would provide assured, long-range funding, it would not prevent the Congress from reviewing the program at any time.

For example, the Senate Finance Committee has the authority to conduct oversight of a revenue sharing program and at any time, could report legislation to alter the nature of the entitlement.

The entitlement programs must be included in the congressional budget resolution.

The Budget Committee itself could, at any time, review the program and recommend that entitlement be reduced.

During the 15-day referral to the Appropriations Committee, that committee has the opportunity to review and offer an amendment to a program. However, this referral only takes place during the year that the entitlement is being enacted.

Simply stated, the State, county, and city officials are unanimous in their support of the entitlement financing mechanism for revenue sharing. This mechanism carefully balances the long-term funding aspects of the program with the legitimate concerns over congressional budgetary control.

We would urge the Finance Committee, and the entire Senate, to adopt it as a key feature of the revenue sharing legislation.

I will close by noting that attached to my formal testimony is a detailed explanation of entitlement financing. I think you will find this material most helpful.

Senator NELSON [presiding]. Thank you very much, Mayor Poelker.

The next witness is Mr. Martin Sabo, speaker of the House of Representatives of Minnesota, representing the National Conference of State Legislatures.

STATEMENT OF HON. MARTIN A. SABO, SPEAKER, HOUSE OF REPRESENTATIVES OF THE STATE OF MINNESOTA, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. SABO. Thank you, Mr. Chairman and members of the Senate Finance Committee.

I appreciate the opportunity to appear here today on behalf of the State legislatures throughout this country and to express our appreciation for the support of the Senate in enacting general revenue sharing originally, and for your continuing support of that program.

I have submitted a prepared statement. Let me just make some brief comments in addition to that statement.

We strongly support the extension of revenue sharing. We strongly support the concept of long-term funding. We think that it makes sense.

We would share the feelings of our other colleagues in State and local government that revenue sharing should have an annual increase relevant to the program's original intent.

Fundamentally, as this committee considers reenactment of revenue sharing, we ask you to please keep it simple. Eliminate restrictions rather than add them. Be careful on your auditing procedures; don't goof us all up.

It does not serve the people to add redtape. It may serve some bureaucrats, but not the folks that you and I were elected to serve.

To deal with auditing, each of our States have different procedures. We want to make sure our moneys are spent correctly to serve people. Do not change the entire system on us.

We are responsive. I am a telephone call away from any of my constituents. They have regular contact with us.

We have no problems on which people cannot come and testify. Do not prescribe hearing requirements.

Our fiscal years are different and our procedures are different from State to State. You know, folks flow in and out of our offices in the State legislature daily. Our committee meetings are open. Folks can come and talk anytime they want to.

I do not want to be in a situation where we have not met the requirements of some letter or form. It just does not make any sense.

I want to emphasize what Governor Lucey said. It involves the basic question of trust. The Federal Government should have some confidence and trust in us as we spend these dollars. Though not the biggest portion of our State budget, it helps us. It provides us with flexibility in dealing with human programs that we make judgments on in our respective States.

We do things differently. I expect our neighboring States may do things similarly to Wisconsin, but not everything.

Allow us some of that flexibility.

In that form, revenue sharing will best serve the people of this country.

Thank you.

Senator NELSON [presiding]. Thank you, very much.

Our next witness is Mayor Dumas, mayor-president of Baton Rouge, La., representing the National Association of Counties.

Mayor, the chairman of the committee, Senator Long, is engaged in another conference and wanted us to notify him when you were to go on as a witness. We have. He has not gotten back yet.

I will risk his wrath in letting you proceed without him being present for the beginning of your statement.

If he misses much of your testimony, I will get you an appointment in his office, and you can repeat it then.

STATEMENT OF HON. W. W. DUMAS, MAYOR-PRESIDENT, BATON ROUGE, LA., ON BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES

Mr. DUMAS. Mr. Chairman, I am delighted that my Senator would think so much of me. I have been before this committee before. Senator Roth, Senator Packwood, Senator Brock, Senator Nelson—we have met before.

I represent the National Association of Counties. It was my honor, back in 1966, to be the president of this organization of about 30,000 members.

In 1970, I was one of the 21 that met at Williamsburg and flew to the White House with the President, in order to talk about revenue sharing. It was President Nixon at that time.

I know of nothing that the U.S. Congress has done that has meant more to the local level than revenue sharing.

I came today because I have heard so much about the House version of it, and if you are not confused, maybe you do not understand the situation.

I am not confused, gentlemen, because I know what we have done with our revenue sharing and there is a complete audit of every nickel we have spent and what we have spent it for. There are people in the United States on the local level who know what they are doing, and we certainly are appreciative of the fact that the U.S. Congress and the Senate knows what they are doing, because they were very intelligent 5 years ago, and I hope they use the same intelligence this time.

I do not think that we have to go through all the redtape that you have in the House bill. I think it was good enough for us to save America for the past 5 years. Why should we not continue to save America?

If the cities and counties and States go down, you have no place to go. Last year, my budget was $52,800,000.

It is not deficit spending. We cannot spend more than we can anticipate collecting, so naturally we had to cut $10 million out of the requests of the department heads.

Had it not been for revenue sharing, we would not have been able to do as many things as we needed.

When you take money out of your operating budget to do capital items, like buying automobiles for policemen and firemen, trucks for firemen, and all of those things, then you have no money left for raises for your employees and other things, like libraries, mental health, alcoholic programs.

We were able last year to balance a budget of $52,800,000. We retained all 2,900 employees. We gave a 10 percent raise, and in May or April of this year, we declared a $1,320,000 surplus. That sounds real good, except for one thing. As I said earlier, we cut out $10 million to balance the budget, so all we did was take the $1,320,000 and put it back into the various departments, police, fire, the department of public works, library, who needed money that we had to cut out before.

Gentlemen, I am telling you, if revenue sharing is not put back and you do not do it quickly we are in trouble. The law says I must present the budget to the council no later than November 5 every year, a balanced budget.

We are making a study of 20,000 known alcoholics in Baton Rouge. We have to take money out of revenue sharing for day care centers, all of the things that they promised us back in 1969 and 1970. They told us do not worry about it. Do not misconstrue revenue sharing for categorical grants, because you need this money for brick and mortar and you need this money for operating purposes.

Thank God we do not use any of these funds for operating purposes. We have not used one nickel.

Had we not been able to use the revenue sharing for brick and mortar we would have had problems. We were able to help our refuse department. We were able to build five new fire stations in order to maintain the No. 2 rating we have in Baton Rouge. We were able to buy some police cars and build libraries and things that are so badly needed.

We did not renege on taxes. We have a 6-percent sales tax. We approved the first bond issue in 1965 that was passed in 42 years.

I think one of the biggest mistakes made is to have gotten away from the OEO and have gone into other things. This is the area where you can help people, black people.

As mayor of Baton-Rouge and president of the county, as a white man, there are some people that I cannot reach. When a black man takes a job with me he is called an Oreo; I am called a Cracker. But through this OEO program, we can get down to the grassroots, because when a person loses his or her self-respect or identity as a human being, that is where your problems come from. Because of revenue sharing, we have been able to get down to the basic things we need in Baton Rouge, and certainly with fire, police, and all these things that are so vitally needed to keep America strong.

I will say once again—I know that Senator Long has heard me say this—that America is the only nation in the world that stands between freedom and oppression, and when the cities and counties and States go down, then you have no free America, and all the world goes down.

You have a tremendous responsibility in the Senate Finance Committee and in the Senate to make sure that we get these funds as soon as possible.

We in counties cannot have deficit spending and I think it is good in one way. It is tough to say no, and without the help of the U.S. Senate and Congress in getting this bill through immediately, there are going to be more problems.

The sooner you get on with it, the better off we are going to be, and the better and stronger America we are going to have.

Senator Long, it is nice to see you again, sir. I will leave you with that.

The CHAIRMAN [presiding]. I am concerned. I might ask you, Mr. Dumas, with the various strings that the House put on this bill, I know they can say a lot of those things, that they have a lot of appeal.

I notice that you are in the process of being reelected. The people in your city have shown good judgment in keeping you in office a long time. If they are halfway grateful, they are going to keep you in as long as you want to serve.

I happen to notice that the black citizens of your community gave you an overwhelming endorsement.

Mr. DUMAS. Seventy-five percent.

The CHAIRMAN. If you lost a black vote, you did not lose many, and those black citizens were equally helpful to the Governor of the State and to the committee of the U.S. Senate, and others.

What is your thought about that aspect, that you are going to do everything you can to try to see to it that our black citizens, not only have what is right for them, but what has been denied to them in the past.

If someone has reason to think that there is some discrimination, I am all for the courts and everybody else enforcing civil rights laws, but what is that going to do as far as your administration of city affairs? If it is someone who does not have a good case, but maybe dreams up some unintended wrong to tie you up in court, or to tie you up here in Washington, what problem would that give you in trying to provide for all of these citizens, including those outstanding black citizens who have given you an overwhelming majority in your city?

Mr. DUMAS. If I were in the House and I wanted to defeat this bill, I could throw in so many things, you would have to dislike one of them.

The thing is, the House has put so many strings attached to it that it is making it almost unbearable.

Take the day care centers, without day care centers, there are a lot of black people in my community, mothers who want to work, but they cannot work unless they have a place to take care of their children.

So we went on and we funded the day care center, because this helps relieve the welfare rolls. It takes these people off welfare, and it allows them to earn a living and maintain their dignity as a human being and as a citizen, whereas before, they must rely on welfare.

The neighborhood youth centers, the mental health centers—we spent $150,000 to build a building to start mental health. Over 1,000 people have gone there, people who need mental health assistance, and through revenue sharing we were able to do it.

These are the things I am talking about, the human, basic things

that makes this country so great, and in my experience, I am glad to say that we were able to get 75 percent of the black vote.

I think it is something that we have reached the point now where all people in the cities and in the counties are Americans, whether they are black or Mexican or whatever race, they are all Americans, as far as I am concerned.

One of the greatest things that I have done since I have been mayor, was to form the OEO or the community advancement. We were able to take care of the senior citizens and provide meals-on-wheels and all of these things that people have been neglecting in this Nation. It is being done with revenue sharing because we cannot take it out of our operating budget.

We have so much money that we collect, and without revenue sharing we just cannot do it all.

I think that the strings that have been attached are an insult to the intelligence of the mayors and the county officials and the Governors and the legislators. To say that we trust you by a vote to send us up here, but we won't send funds back.

If you are getting ready to go out and make a loan of $2,500 for a downpayment on a house, and all you can find is $1,500, then you cannot get any more. That leaves $400 or $500. You lose the house that you would have gotten, and you just have to find some other way of living.

So I say, it was good in the early days, and it is great now.

The CHAIRMAN. I am concerned about a provision in the House bill that says you cannot discriminate based on age or disability. At least, you cannot discriminate based on age. It may be disability too.

Let us assume that you want to do something to help your aged citizens, you want to provide them some meals or some service, you want to help these dear, sweet, old people. You have an interest, and so do I.

Then you go and find a provision in Federal law that you cannot discriminate in favor of some aged person, then that means you cannot have a program for meals on wheels, if you want to, for the old people. You can't have some kind of service that you provide just for them to help them with their problems.

How are you going to deal with that, if you have to live with it?

Mr. DUMAS. I guess it is a process of elimination, if you are not allowed to use funds for that we would have a problem. We have one of the finest councils on aging. We set it up in 1967.

There was a great article in the paper, Senator, about what we have done for our senior citizens. I think that is an area where we have all been neglectful.

We not only serve meals on wheels, but we have mini buses that can take these people over to the shopping centers and they are given discounts.

We have homes for senior citizens where we, through our committee were able to go and provide entertainment for them.

A few Sundays ago we had at the Hilton Inn over 1,500 senior citizens. We were able to get the Hilton to allow us to use one of their big rooms, and we had over 1,500 senior citizens.

We were able to buy some refreshments for them, and there were 1,500 senior citizens that had never been treated like that before. I

think it is something that all of us must take into consideration. If you put restrictions on it, you might as well just keep it—not that I would advocate it.

I think that we have got to have it. You have got to have money in your operating budget in order to do the things that the fire, police, and these other departments do.

If you don't have the money, you have to cut down something. Usually it is something you cannot afford to cut out, or somebody who can ill afford to have it cut out.

The CHAIRMAN. I have a great admiration for the chairman of the House committee, Jack Brooks. No better friend when I agree with him; no tougher opponent when I cannot agree with him, but Chairman Brooks came out saying he was against the bill. He is going to kill it anyway he knows how to kill it, so he is going to haul it down with restrictions and proceeds to explain that he is going to have civil rights restrictions on it, you are going to have all sorts of things for the aged, for religious discrimination, everything else that could be conceived.

When a man starts out by telling you that he is against a bill, against it, he is going to kill it anyway. He knows well how to do it. There are so many things that will not work.

After doing all of that, would you not think that that was Greeks bearing gifts in that kind of situation?

Mr. DUMAS. I cannot talk about Texans. I married one of them.

I think that Congressman Brooks did his homework. I think he was against this for whatever reason. He was more than proud of his own attitude.

That is the same place that the Governor came from.

To me, I think it is quite interesting that a little State like Texas receives so much Federal aid. Like I said once before, by the time that you go and check all the Federal programs, if they get any more, you are going to have to double take the State of Texas.

They have theirs. I take my hat off to Congressman Brooks. He did a good job.

I would have done the same thing, confused the issue.

The CHAIRMAN. He is a good man, and I love him. I wish we could have kept him in Louisiana. He probably would have created problems for us, if we had.

What is your reaction to all of this help in terms of the provision that you cannot do anything that might discriminate based on some religious aspect of it? You cannot help the aged. The Government is going to have civil rights laws to end all civil rights laws, as a condition of revenue sharing.

How does that affect you?

Mr. GIBSON. Mr. Chairman, the U.S. Conference of Mayors has taken the position, the less strings attached the better.

We have been able to prove that we have used this money effectively. We really do not need to have it tied up.

We are not opposed to the civil rights accountability provisions. At the same time, we do not want to have a lack of due process for governments. This is what we are talking about.

It is not only individuals who should have due process, but the government should have due process. If our funds are cut off because

somebody brings a charge without having any hearing, we are going to have problems.

The city of Newark is 60 percent black, 10 percent Spanish speaking, 30 percent minority group, that minority group happens to be white. We do good things for our white citizens in Newark. [General laughter.]

Mr. GIBSON. The important thing to point out is that any government official can be harassed by an individual or by a group that we have not turned all this general revenue sharing money to them. That can happen to anybody here.

We do not want to be restricted in providing basic services to our citizens. We have accountability. We have proven that through the life of this program.

None of us are arguing against accountability. We are arguing against restrictions that will not allow us to provide basic services.

The CHAIRMAN. I was very dismayed a while back. We had a sum of money in the State of Louisiana for education. Here is something that had been kicking around for about a year, and we finally managed to get it.

In half of those parishes, the money is being held up. You do not need to ask for a waiver to begin with. By the time you finally got the attention of the General Counsel over at the Department of Health, Education, and Welfare, finally reached him, he had decided the matter before sundown that night, and he did it.

The whole thing is all over with. Mind you now, in eight of those parishes, there never was a problem. That did not keep them from having the money held up, and having to wait until they lost teachers just because they could not get a decision out of Washington.

I am very much concerned about this prospect of having your money held up while somebody dreams up some sort of idea that might create a problem, like they did in HEW—with all good intentions, I am sure—saying this father-son day in a high school, no more. I don't understand it.

Next thing you know, your money is out because you had a father-son day. Nobody understands.

I am proud that this committee tried to go the extra mile. Some of us want to go all the way with no strings at all. All we want to know is, if you have the money, that you spend it for the benefit of your people, that the money was used, that somebody did not pocket the money and go home with it, and that is all we want.

Mr. DUMAS. I agree with Senator Nelson. The budget that we have, the $8 million we received per year for 5 years, this is separate from everything else. We do not include it in our operating budget.

I agree with you that we cannot even spend a nickel, unless we introduce it at one minute and held over 2 weeks at the next meeting at a public hearing, everything in this thing.

If we change any funds in this thing at all, say one time I think it was $25,000 less than what we thought the job was going to be, so we had to advertise for this in order that this $25,000—met the regulation, which was all right. We did that anyway.

I agree with you that you can keep tabs on your operating budget and the amount of money that you have. It is only $8 million out of

$60 million, a little more than 7 percent in the budget, so I do not see any real argument in the House at all.

We are doing what we should do, and what we have been doing, and I think that these men at this table here all represent the great number of people—if they do not like a thing, get rid of us.

My time is coming up on the second of November. I will find out, and let you know how I make out.

Senator BYRD [presiding]. Senator Packwood?

Senator PACKWOOD. I have a question from Senator Fannin. It relates to one of the strings under the present law, the Davis-Bacon Act.

I will start with Mr. Dumas, first.

As you know, any project that uses at least 25 percent revenue sharing funds has to observe the Davis-Bacon Act provisions. Would you favor the elimination of that provision in this new bill to be passed?

Mr. DUMAS. No, sir. I think it is under the Federal program. You are talking about the Davis-Bacon, which is another name——

Senator PACKWOOD. The prevailing wage act.

Mr. DUMAS. Everything that we biult, we had the prevailing wage where we had Federal money.

Senator PACKWOOD. That is a Federal string you do not mind?

Mr. DUMAS. Not at all. It is something that is always being done.

Mr. POELKER. I would answer the same way, as far as the city of St. Louis is concerned.

Mr. GIBSON. We also do it in the city of Newark.

Governor LUCEY. As long as the language stays as it is in the present law, as far as Wisconsin is concerned, we have a State prevailing wage law.

Mr. SABO. In Minnesota, we also have State prevailing wage laws. I am not that familiar with the provision.

I believe the House at one time expanded it. I know there were a lot of people that had rather strong objections to the extension of it.

Senator BROCK. The House bill would require prevailing wage on all construction. We now require, under the present law, prevailing wage if 25 percent for the expenditures of the project come from revenue sharing.

The problem that has been presented to us, out of the 39,000 communities that receive these funds, over half of them get less than $7,000. These are very small towns, and if you give them the prevailing wage, you eliminate any opportunity for the revenue sharing to do any good, because you are going to raise their cost more than $7,000. Therefore, they lose.

Mr. DUMAS. Make an exception to the rule.

Senator BROCK. That is what I am reaching for. I think you have to have some judgment.

Either we keep the current law that Mayor Gibson suggests, and I agree, or we have some exception for very small communities.

Then you get into an administrative problem. It is very difficult for the Office of Revenue Sharing, with the small number of people—and they are trying to keep it small.

How do you handle that?

Wouldn't we just be better just to stay with the current law? If

you use 25 percent of the project's money out of revenue sharing funds, you use Davis-Bacon. Is that not the best way?

Mr. POELKER. That would be acceptable to the majority of the cities and the National League of Cities who have been confused by wholesale application of it to all construction, if they have any revenue sharing money.

Senator PACKWOOD. All of you have commented on the civil rights enforcement section in your statements. Basically, what it comes down to is what we want is a fair section, and I think that the witnesses who will testify later who are disappointed in the present civil rights enforcement will say the same thing. We want a fair section that makes sure when there is discrimination that it can be remedied, but the local government is not harassed by anybody who brings a suit and you lose your money for 3 months, 6 months, 1 year, while the suit is pending.

Can any of you give use any advice as to how you draw a process that is quick, credible, and is fair to both sides in this kind of situation?

Mr. DUMAS. We have been through that in the past few months. We passed a Fair Employment Act. It was approved by the council, so that the citizens in the parishes, in the case of unfair employment practices would meet and discuss it.

Senator PACKWOOD. What happens to the money during the interim, between when the charge is made before an Administrative Officer of the Office of Revenue Sharing or a district court judge? That can drag on for 1 year—2 and 3 in some cases—in the courts of law.

What happens to the money in the interim? Does it keep coming, or is it cut off?

What should happen if, at the end of 2 years, you find that you were, indeed, discriminating?

Mr. DUMAS. The hardest thing is when you have to give money back. That is what you call motivation.

Senator PACKWOOD. There is no greater motivation than the thought that you might lose your money.

Mr. DUMAS. If you know you are going to get a ticket to run a red light, maybe some people will and some won't. You are not likely to run that red light.

That is the motivation to keep you from running it.

Senator PACKWOOD. What do you do in this interim?

All of us at the end pretty much agreed, if there is general discriminating, you will keep discriminating and you will not get your general revenue sharing money.

How do you work it out so that it is fair to the plaintiff and yet the city is not unduly penalized during a 3-month, 6-month, 1-year pendency of a suit, if you want to call it that?

It may not be a suit in a court, but an administrative hearing?

Mr. POELKER. It should be left up to the decision of the court, not the Secretary.

Senator PACKWOOD. Would you say there should be no money cut off during the pendency of the suit?

Mr. POELKER. As long as the suit is pending and the locality has not been found in violation until that time. I do not remember the exact language, but the civil rights language was included in the public works/countercyclical bill.

If you could adopt similar language in this bill, at least the Treasury Department, which has the responsibility for enforcing both of those acts, both the countercyclical/public works bill and the revenue sharing bill, would have the same set of guidelines to deal with both enforcement proceedings.

I forget what the specific language is, but it is surely a more acceptable language than is in the House bill on revenue sharing.

Senator PACKWOOD. What happens if you get to keep the money during the pendency of the suit, and at the end of the suit, you are found guilty of discriminating? Is that just tough luck for the past year?

Senator BROCK. The judge would have the discretion——

Mr. POELKER. The judge would have the discretion of levying whatever disciplinary action he decides.

Senator PACKWOOD. At the end of the hearing, and you have been found guilty, and the judge says, all right, you cannot do it anymore. My hunch is at that stage, you are going to come into compliance. What you are saying, until that stage, there should not be any withholding of funds?

Mr. POELKER. I think that that would be the sense of most of the members of the League of Cities, although we have not really defined that in our policy statement.

Senator PACKWOOD. Mayor Gibson?

Mr. GIBSON. Senator, I think to withhold prior to commission, so to speak, is unfair. We are talking about due process.

It would seem to me that there can be provisions for whatever period of time would be decided upon, whether there would be, upon conviction, that future funds could be withheld.

Senator PACKWOOD. After conviction, a court of administrative law officers could say, if you are going to comply, comply pretty quickly or you will not get any more money.

You agree basically with the two previous speakers. During the pendancy of the decision, funds should not be cut off?

Mr. GIBSON. Let's make the other supposition. Suppose you are proven not guilty.

Senator PACKWOOD. I agree.

The problem comes in the length of time. Without trying to have undue administrative burdens in the civil rights area, yet all of us want to make sure that there is no discrimination. Is there a way to do it quickly? A way to do it fairly, so you do not have something hanging for a long period of time, wondering whether you are discriminating, either having the funds held up, or wondering what is going to happen at the end? That whole frustration.

Mr. GIBSON. Really it is the administrative mechanism that is created to carry out. That can be done, given the proper staff.

I do not think in past years, we have had proper staff and equipment to really enforce it.

Senator BROCK. Under the current law, if you have staff, you would have a quick decision?

Mr. GIBSON. That is right.

Mr. DUMAS. One thing that I would do. The first time that that happened, we were being sued, the first thing I would do is get in touch with my people to make sure that there were not any other violations that had not been filed.

We would be checking the records over quickly to make sure that there were no others.

In other words, you talk about compliance, if there is an error made, then right away we will be catching it to make sure we would not have two, three of them.

Senator PACKWOOD. I hope we can come to some rational decision on the civil rights question.

How do you procedurally make it fair?

The other fundamental question is, do you understand your own priorities?

Can local government really decide whether a park block is more critical than a day care center, that a fire engine is more critical than a boat? As far as I am concerned, the Federal Government has to come to the conclusion of yes.

If you do not know that you need a fire engine more than a park block, who does? There will be witnesses following you that will testify—I have read their statements—that you do not understand the proper priorities. Somehow, you overlook the poor, the oppressed, the lame, the blind, and special interests have more power with you than they do with us, and those downtrodden groups would get a better shake from the Federal Government.

What is your response to that?

Mr. DUMAS. My answer to it, is the last two times I have run, I have carried 114 of 114 precincts. Somebody must know something.

I thank you very much.

Mr. POELKER. There is not any question about mayors and Governors and county officials being aware of what the priorities are in their communities.

What confuses a lot of these groups is that they want to establish the priorities, and I think therein lies the problem.

I think that we have access, you know, through the mayor's office or through the Governor's office, through our council, and through our agency and through our citizen participation programs that we know what the needs are better than anybody else.

Establishing the priorities gets to be a very difficult thing, sometimes. You do not please everyone. Those who are not pleased that everything is going through a social program of their liking, they may be very sincere in what they are proposing, but as far as local mayors and governors knowing what the needs are and how they establish the priorities, yes; I think they are very capable and have responded as well as can be expected to the needs of the people.

Senator PACKWOOD. Let me read you the statement that Mayor Gibson gave last year. I think it is as good as I have seem—I hope, Mr. Mayor, that it would still be the same one.

I asked you roughly the same question. You responded:

You know, because people talk to me, I know what they want, I know what is needed. If anyone can tell me that they know more about what the people in Newark want then I do, they are wrong.

Is it still the same answer?

Mr. GIBSON. Yes, sir.

Senator PACKWOOD. Thank you.

I have no further questions.

Senator BYRD. Senator Nelson?

Senator NELSON. I have taken up too much time this morning.

Senator BYRD. Senator Roth?

Senator ROTH. I have only a couple of quick questions.

I believe that the Governor, in his testimony, came out in favor of the local government units using funds for schools. That was the first part of your testimony.

I do not believe the others touched on that. Do you agree with that change?

Mr. POELKER. I would not, in as far as our city is concerned. Our National League of Cities has not taken a positive stand in that direction, but since the schools in our city are funded under a separate taxing base, and also administered by a separately elected board, I think that the role of the States and the Federal Government ought to be directly processed through education programs that are directed at resolving education needs, and not put the burden upon mayors in their revenue sharing programs to try to identify another priority in schools.

Senator ROTH. You earlier said we ought to keep it as simple as possible.

Mr. POELKER. As simple as possible, but traditionally education and municipal service have been separated in most parts of the country.

There is no restrictions on the States allocating their revenue sharing money to educational projects.

Mr. SABO. I would not favor it if it were mandatory that the local unit had to pass it on to education.

I see no problem with it. My judgment would be——

Senator ROTH. Just to make it permissible.

Mr. SABO. I am sure the city councils and county board commissioners around the country are going to use those funds for city and county purposes. It could happen that there is mixed school governments in some place, and they choose to make that decision. Fine.

Senator ROTH. One of you made some reference to our new budgetary procedures and setting up the priorities within that.

I would like to get your viewpoint as to the future. A great deal of controversy and discussion here has been whether we should go the route of categorical grants or special revenue sharing and general revenue sharing.

As we move down establishing priorities—I am not talking about this particular piece of legislation today. I hope we can get it through as simply as possible.

When we go down to future years, what is your preference, as a general rule? I am not saying either/or.

Do you prefer Federal funds flowing through a revenue sharing approach, or do you prefer that the emphasis be on categorical grants?

Mr. DUMAS. That was the way we did it before categorical grants. We all did it together.

We got into revenue sharing, as I stated earlier, not to confuse revenue sharing with categorical grants. We go back home and somebody says, you mayors got all the money in the revenue sharing. That was not meant to be that way in the first place.

This is what has caused a lot of apprehension among the NAACP and the other groups, and like in New Jersey, the minority groups are afraid that through this process that they are going to lose some money that they cannot afford to lose.

Like the social programs, there are some good ones, and you have to keep those programs but you cannot afford to do all those things. That is where we got into this thing it is.

I wish they would leave it like it was.

Mr. POELKER. I would like to respond to that, Senator.

I think the National League of Cities' policy statement, as well as the policy statements issued by the Advisory Commission on Intergovernmental Relations are identical, calling attention to the fact that there is a place for all three of the programs in the relationship of local government to the Federal Government, general revenue sharing, the bloc grant approach, and categorical programs, because I think that they are dealing with three kinds of different, specific kinds of aids.

I think that there is a role for the continuation of all three approaches.

Senator ROTH. I am not suggesting that we rule any of them out.

What I am saying is that when we look down at the new budgetary procedures, we are trying to live within a budget. We are going to have so much additional money each year to spend.

I realize it is hard to talk in generalities. I wonder, as we go down the road—and we are not talking about doing away with categorical programs, or special revenue sharing; I think you are right.

I just wonder, as we look down, whether you have any preferences in that manner or approach as to additional funds, rather than doing away with the old.

Mr. POELKER. There is no question about it. The general revenue sharing and bloc grant approach provides opportunities for annual increments that will assist local programs, but as we get into specifics of unemployment, and we get into health and others, I think that those are rifle shots at particular problems that local governments have really not been in a position to deal with because they are influenced by national conditions. Therefore, I think in those areas a categorical approach has to be one of the targets.

Senator ROTH. Governor?

Governor LUCEY. My general tendency is in favor of the bloc grant revenue categorical aid. If you recall some of the spaghetti charts that were part of the budget presentation of the administration last January, it is something that I think has to be examined very carefully by the Congress.

When you consider 35 different categorical programs for highway funds alone, and a couple of dozen that deal with school lunches and 60 or so that deal with health, I think that we have just got to regularize this process, and consolidate some of these programs.

Senator ROTH. Consolidate and simplify.

Governor LUCEY. Exactly.

Mr. DUMAS. If I may say one more thing: if you are going to help anybody at all outside of revenue sharing, I believe that the Congress is going to have to take a look at, say OEO community advancement charts. This is one of the more vital entities of any local government today, and without that help, without those people there, we will continue to have problems.

We do not have that now, because we have a tremendous CEI in Baton Rouge, and I am proud of it. I am sure that other cities have

problems. That is one place Congress could concentrate on to help people who need help.

This is the whole thing.

Mr. SABO. Senator, if I might respond generally, I agree with Governor Lucey that for ongoing programs, I think bloc grants are so much better than categorical grants. I think they are much more productive.

In my judgment, one of the things that Congress needs to try to remember, they have different roles in the development of a program.

My judgment is that many of the categorical programs in the mid-1960's served a very useful purpose, focusing the attention of the Congress, the people of this country, the State governments, and the local governments on particular problems.

The approach was used for focusing attention. It may not be the approach for carrying on a program after a given period of time.

I think that limited the attention-getting approach that may fit a category, it is not a particularly good mechanism after that attention has been gathered.

Senator ROTH. One final question.

As you well know, I am sure, that bloc grants make the Hatch Act apply to State and local operations. Has there been any suggestion about the Hatch Act applying as a result of revenue sharing?

Mr. POELKER. I think that there was a ruling. I do not know whether it was a judicial ruling, but it says that it does not.

I think that the question was raised in the early stages of the present law.

Governor LUCEY. I was just talking to Ms. Tulley here who administers general revenue sharing. I hope she will have a chance to answer some questions.

On this question here, she said that they got into court and they got a legal ruling that the Hatch Act does not apply.

Senator ROTH. Thank you very much.

Senator BYRD. Senator Gravel?

Senator GRAVEL. We will be receiving testimony on this subject later in the day, but I want to get you on record with regard to the inclusion by the House in the nondiscrimination section of the item of religion.

There may be a move to include that in the Senate. What are your views?

Mr. DUMAS. I think this country was founded on separation of State and religion. As far as I am concerned, that is still what it is. I do not think religion should be brought into it at all.

I think that we can help. I think it is a matter of discretion.

If somebody needs some help, I do not think you have to put it on a legal basis. They can belong to any religion they want to. If they needed help, they would be taken care of.

I have never been bothered with that problem.

Senator GRAVEL. You would be for leaving religion out?

Mr. DUMAS. From my point of view, yes.

Mr. POELKER. I would support that, too. Just as an individual, I am not speaking for the National League of Cities at present. I do not know how everybody in that organization would feel. I do not think it is necessary to include that in the discrimination section.

Mr. GIBSON. I do not know how we would get into a definition of, or dealing with, religion in this context. If we are going to have antidiscrimination provisions and enforcement, I have no problem with the word. Again, it is a question of accountability.

As Senator Packwood pointed out, if we get in a rapid enforcement of antidiscrimination enforcement, I have no problem with religion being discussed.

Senator GRAVEL. If it were left in, it would go according to the plan that Senator Hathaway was talking about. You would have no problem?

Mr. GIBSON. No, sir.

Senator BROCK. Not the way it is in the House bill.

Mr. GIBSON. What is it?

Senator GRAVEL. I would interpret it this way. If we did not let the moneys be tied up during litigation, and later they are caught discriminating, they ought to pay the money back, and that is the punishment. Under the House bill, if they were under litigation, they would have been punished, because they would have been denied the funds—punishment before the fact.

They made a very strong case in that regard.

The House added the provision of religion to the act, and I understand we will be receiving testimony from the Catholic and Jewish groups asking that we hold to the 1964 act in definition, which had some kind of exclusion with respect to religion.

So what I was trying to ascertain, if we want to go back to the 1964 act, and keep that word "religion" as was added by the House, you would have a situation as defined by Senator Packwood, as I understand it now, that the moneys would not be held up if there is litigation with respect to discrimination.

I would not be terribly disturbed if the word "religion" were part of it, since nobody would be denied funds in that regard unless there was actual discrimination proved as determined by a court decision.

Senator ROTH. Would the Senator yield?

Senator GRAVEL. I yield.

Senator ROTH. I would just like to point out that in my judgment, the so-called Packwood approach would not resolve the problem raised. The inclusion of the word "religion" raises some very serious substantive problems that would not be taken care of by procedure. Some of these funds do go into both parochial, Protestant and Jewish religious organizations, and inclusion of the word "religion" would raise some very serious questions, in my judgment, and would be a serious mistake.

We cannot remedy this, in my judgment, by procedure. It is a matter of substance.

Senator GRAVEL. Let me add to that. Let us take a hospital, a Catholic hospital that would receive some funds to handle a contractual old folks program. Catholic hospitals do not discriminate. They just happen to be run by Catholics.

If there is no discrimination because of religion, there would not be discrimination.

Senator BROCK. That is not the danger.

Senator GRAVEL. Let's take a Jewish hospital which received Government moneys that then discriminated in favor of Jews as opposed to other people.

Senator ROTH. I would like to point out that I got a copy of a letter to Senator Long dated July 9 from the Federation of Jewish Philanthropists in New York objecting very strenuously to the word "religion," because they point out, if you have school lunches of some sort sponsored by a religious organization, that you can challenge it on that basis. That is my concern.

The problem you are raising is that religious organizations are playing a very significant role in some of these programs, and if you rule them out, because they are primarily serving one group or another, you are creating a serious problem.

The only way you can correct it is to leave out the word "religion."

Senator BROCK. Can you imagine how long a mayor would stay in office if he started giving money directly to a religious group in his community?

Mayor, how long would you last?

Mr. DUMAS. You would find yourself in a box that you could not live with.

Senator GRAVEL. If you had a situation where you had a Catholic hospital in your community, which I am sure you do, and you gave them funds to provide some service, let's say to administer an old folks' food program or handle contractually the meals on wheels, would they be able to get away with it if they actually discriminated pro-Catholic in that program?

Mr. DUMAS. There would be such a line at my house that I would have to get a traffic light put up.

Senator GRAVEL. If we take it out, that could very well happen. But if we have religion in there, and there was no way they could stop those funds except through litigation, then you are not substantively hurt by the addition of the word "religion" in there, are you?

Mr. DUMAS. The only thing I can say, Senator, if I wanted to really help kill that bill, I would say, yes, leave it in there. I do not want the bill killed.

That is exactly what is going on, if they put that in there. You can rest assured that, as the Senator said here, there is no way that any mayor or Governor or county official or Senator or anybody can live with it, because there are so many different religions.

In my city, we do not fool around. The Baptists have their hospital, the Catholics have theirs, and the women have their hospitals.

We do not have that problem in Baton Rouge, but they all need money, just like churches.

Senator GRAVEL. I think we can argue tomorrow in the markup the merits of that issue.

I would like to get the views of Governor Lucey.

Governor LUCEY. I do not think I have too much to add to what has been said. We would like to eliminate discrimination wherever we can.

I notice they also have "handicapped." In the latest Executive order I put out in the State government involving discrimination, we included handicapped.

When you deal with talking about discriminating against the aged and religion, there is a tendency to get involved in a lot of legalistic arguments that go back to what Chairman Long suggested earlier. Maybe some of these amendments are put in here simply to make the bill unworkable. They were put in, in some instances, by people who

had indicated to the House of Representatives that they wanted to see the bill killed.

Mr. SABO. I tend to get confused by this issue, beyond the particular subleties that may be involved here—I am not sure what they are. I have read several memos on the civil rights questions, and constantly, I get confused when I go through them.

I do not believe in discrimination. I think people should be treated fairly, as individuals.

Senator BYRD. We cannot hear you. Would you use the microphone, please?

Mr. SABO. Fundamentally, I very strongly believe that people should not be discriminated against. They should be treated fairly by governmental institutions, and nongovernmental institutions.

We have to be able to do that by a method that we recognize and understand our different heritages within this country. Those are important also, and I read all of these enforcement procedures, and I guess I have come to the conclusion we have not found a very good remedy as it involves the public sector.

The types of remedy you can use in the private sector could well be different than in the public sector. I hear about proposals to cut off the funds. If it is blatant, I agree with that approach.

On the other hand, none of us have achieved perfection that I know of yet. We may end up with governmental programs that serve people which lose.

That does not strike me as being right, either.

I guess I have no specific suggestion. It just strikes me that we need to keep some sensitivity and some good sense and some flexibility to not get all tied up in too many rules and regulations. I think we end up hurting more people than we help.

Senator GRAVEL. I have no further questions.

Senator BYRD. Senator Brock?

Senator BROCK. I am sort of distressed by this conversation, because I think that we are missing the essense of it.

We are trying so desperately in our communities to get church groups and other voluntary organizations to serve their fellow man, to expand their services. We are trying to help them.

Our cities, our counties, our States are working with them. It is grand to stand up here to preach about discrimination. There is not a man in this room, or woman, who believes that this country stands for anything other than total equality under the law, but when you start putting into this particular bill all of these negatives, what you are doing is destroying the opportunity for the program to work and motivate the human involvement at the community level, unless you want to destroy the bill, and obviously that is the purpose of some of these people.

I do not mind people arguing against revenue sharing. They have every right in the world to do that. That is a philosophical problem, and I love to debate it, but I resent deeply people by device trying to destroy something that is so fundamental to the future of our free society.

If we cannot save our local and city and community and State governments in this country, we are not going to have anything left in Washington.

The people of this country had better wake up to that fact. We have got to preserve the right for the American people to be involved in the political process.

The decision we make tomorrow, next week, is probably the most fundamental decision we are going to make in this Congress this year. Let's keep it in that context.

I want, in every way possible, to encourage the Catholic hospital in Memphis, the Baptist hospital in Memphis, the Methodist old folks' home in Nashville, the JC's project for older citizens in Chattanooga to be encouraged, to be supported, because they are helping human beings. I do not care if they are Catholic, Jewish, Baptist, black, white. They are human beings; they need; and there is no discrimination in those projects, or we could not even get them off the ground.

I see no reason for us to, by device, encumber this bill to the point where simply it will not work. That is what I resent about it.

We have a process of due process of law; that is what America is all about.

I do not believe that administration justice can work without due process for all parties. If you keep that in this bill, fine. Discrimination, period.

We should not try to spell out what kinds. Discrimination of any sort should be inimical to what this society is all about, and it is, but if we do it in the context of due process of law and the process of the judicial system and the court system, that works.

If we are so impatient to destroy the judicial process in order to accomplish a temporary achievement, that is not justice for the American people.

I just made a statement, but we had a question last year where most of us who were here, we had a good time, and it is getting more serious now.

We need your help up here, and I appreciate your coming.

Senator BYRD. I might say that to me, the great appeal of revenue sharing is that the decisions as to how the money shall be spent is made at the level where the individual knows best the individual communities.

I think that it is important that we leave it that way.

I approve of the concept of revenue sharing. I had difficulty in the past in supporting it, and have some difficulty now supporting it because of the heavy deficits that the Federal Government is running.

If we are going to have revenue sharing, it is vitally important that the funds go back in the name of revenue sharing to the States and the localities with the least strings attached possible.

Nobody knows Wisconsin better than Governor Lucey, unless it be the former Governor who sits on this committee, Gaylord Nelson. Certainly nobody knows the city of Newark better than the mayor of Newark or the city of St. Louis better than the mayor of St. Louis, and the city of Baton-Rouge better than does the mayor of that city. So I think it is very important that Congress continues this program, and I am sure it will, not with a lot of restrictions emanating from Washington, D.C.

I think this great country of ours is too big and diverse. The conditions are too different from one area of the Nation to another area

and I hope we can fashion a bill that will have the least possible strings. I close with just one comment to the mayor of Baton-Rouge who said he could not make an adverse judgment on Texans because his wife is a Texan.

I might say I cannot make an adverse judgment on Louisiana, because my wife is a Louisianian.

I thank all of you gentlemen very much.

[The prepared statements of the preceding panel follow. Oral testimony continues on p. 112.]

STATEMENT OF HON. PATRICK J. LUCEY, GOVERNOR OF WISCONSIN, AND CHAIRMAN, COMMITTEE ON EXECUTIVE MANAGEMENT AND FISCAL AFFAIRS, NATIONAL GOVERNORS' CONFERENCE

I want to thank the Chairman of the Committee, Senator Long, and the other Committee members for this opportunity to present the Governors' views on the urgent need to renew general revenue sharing.

On behalf of the National Governors' Conference I want to acknowledge the strong leadership the Chairman has provided for the revenue sharing program over the years. State and local governments and their constituents are very appreciative of your past efforts. It is now, more than ever, that we need that leadership.

As I am sure you understand, States and their local governments have their share of differences. In fact, we disagree much of the time. But we are of one mind when it comes to revenue sharing, and we are appearing together here today to urge you to reenact promptly what we believe to be the single most useful and successful of all the federal grant programs.

The bill you are considering, HR 13367, contains all the essential elements for an effective revenue sharing program. It remains the existing distribution formula based on need, population, and tax effort. It contains no additional categorization. It removes the prohibition on using revenue sharing funds to meet federal matching requirements. Most importantly, by providing advance funding, it permits States and localities to plan ahead, and that must be done to make the best possible use of revenue sharing funds.

The commitment to long-term funding in the House-approved bill was a difficult decision for the Congress in the context of its new budget procedures. I am confident, however that it is the correct decision—a decision which will pay large dividends in terms of improving the administration of the program and strengthening the federal-state-local relationship.

The current version of the revenue sharing bill differs from the original revenue sharing law in two important respects. First, the three-year, nine-month funding provision is shorter than the five-year span of the current law. And, unlike the present law, there is no provision for an annual increase in the funding level to account for inflation. Those changes indicate an unfortunate diminishment of congressional support for a program which I believe has worked very well.

If revenue sharing were made a permanent program with a guaranteed level of funding, it would be possible for state and local governments to make much better use of the funds. No longer would States and localities emphasize one-time expenditures as a hedge against the possibility that revenue sharing might not be renewed. In the long term, revenue sharing would lessen reliance on the more regressive forms of local taxation like the property tax. Many States, including Wisconsin, use revenue sharing for that purpose now.

Wisconsin distributes all of the revenue sharing received at the state level to local school districts on the basis of need. Between the academic years beginning in 1974 and 1975, per pupil costs rose 11¢ in Wisconsin. The Act as it now stands provides states and local governments with some relief from the inflationary increases in the cost of services they provide. It is my hope that the Committee will add a similar "inflationary increment" to the provisions of the bill it is considering today.

I would like to address most of my comments to three sections of the bill which can and should be improved. To set the context for my comments, I would like to draw the Committee's attention to a report produced by the National Governors' Conference under the auspices of the Executive Management and

Fiscal Affairs Committee. Entitled Federal roadblocks to efficient State government, it is essentially a catalog of federal requirements which impose unreasonable administrative burdens on the States.

Taken together, the specifics in the report demonstrate what can happen when the Congress and a variety of federal agencies do not anticipate the effect on the States of the incredible maze of requirements and regulations which often constitute the "rules of the game" for federal-state relationship.

This "bureaucratization" of grant programs works both ways. For every report a state employee must fill out, there must be a federal employee to evaluate it, file it, or take whatever other action might be necessary.

The result: more and more resources are absorbed in administration while less money is available for the services themselves. Just as importantly, government becomes more and more incomprehensible, not only to the average citizen, but to those who are charged with the responsibility of making the entire process work.

For the most part, the present revenue sharing program is free of the onerous reporting requirements which characterize other grant progams. It is a program which, more than any other, meets the needs of state and local governments. It is a program with federal administrative costs of only one-twelfth of one percent of total expenditures and it is one of the few federal programs which does not require the addition of any new employees to state and local payrolls.

Finally, revenue sharing is a program which acknowledges that state and local governments have the capability to make sound, politically responsive spending choices. It does not presume, as do some other federal programs, that state and local governments are anachronistic political backwaters whose stock in trade is discrimination, corruption, and wasteful spending.

State and local governments are more modern, more responsive and better equipped to administer programs than ever before. The recent period of high costs and low revenues has forced the States to look carefully at our programs and expenditures and make difficult spending choices. There is new emphasis on improved management and accountability. The Congress can be confident that state and local governments are better prepared now than they were when revenue sharing was first enacted to make sound policy decisions concerning the expenditure of revenue sharing funds.

With those observations as background, I would like to make some specific suggestions concerning the legislation before you.

The citizen participation and reporting requirements in H.R. 13367 are reasonable—and commendable—in their intention, but not carefully drafted. The requirements are built around the revenue sharing entitlement periods rather than around the normal budgeting schedule of state and local governments. They should be redrafted so as to guarantee public participation in revenue sharing expenditures as a part of the customary legislative budget cycle. In that context, it is entirely appropriate to have separate hearings to discuss the use of revenue sharing dollars.

The bill also requires that the proposed and actual use reports developed by local units of government must be filed with the Governor of the State. In my case, that would mean two reports from each of nearly 2,000 local government units during each entitlement period. Though the data provided in the use reports might be of some utility to me as a Governor, I can see no purpose in a mandatory filing requirement for local governments. It is likely that the reports would reside in a filing cabinet until they turned yellow, and then they would be bound up and recycled.

Several provisions of the bill require an annual independent audit of the accounts of all recipient governments. That requirement is excessive. I do not understand why it is necessary to require the expense of an annual audit for all state and local government jurisdictions.

Audits should be conducted on a regular, periodic basis, but not each year. They should be restricted to the actual uses of revenue sharing and only supplemented by the minimum amount of additional information that is necessary to put revenue sharing expenditures in the context of the total budget. Though I am sympathetic with the desire of the Congress to have available to them enough information to evaluate the expenditure of revenue sharing funds, I believe that objective can be accomplished without such a comprehensive auditing policy.

This unnecessary and expensive audit requirement presumes that state and local governments do not pay sufficient heed to their own financial affairs. I have seen no evidence to substantiate that assumption, and I believe it to be false.

I also have some misgivings about the anti-discrimination provisions of the bill as currently drafted. I believe they are best understood in the context of the anti-discrimination provisions of the counter-cyclical, public works law because both are administered by the Office of Revenue Sharing. If at all possible, the enforcement provisions of both the revenue sharing bill and the public works/counter-cyclical bill should be identical.

The public works bill provides an uncomplicated enforcement mechanism that relies almost exclusively on the discretion of the Secretary of the Treasury. The revenue sharing bill provides an elaborate and prolonged enforcement process which guarantees due process to recipient governments in a way that the public works bill does not. The Committee ought to seek some middle ground between the two proposals.

An ideal system of anti-discrimination enforcement would emphasize both due process and simplicity to preclude the federal government from arbitrarily suspending revenue sharing funds in any jurisdiction. Deadlines should be short, and findings of discrimination should be based on an administrative ad judicial process which does not rely solely on the judgment of the Secretary of the Treasury.

Finally, I hope the Committee will recognize that there are some inherent limitations on the ability of any anti-discrimination enforcement procedure to be completely successful. We should seek a process which identifies and corrects discrimination. We should be wary of a process which, in its zeal, becomes so administratively cumbersome that it does nothing at all.

I urge the Committee to act quickly to reenact the revenue sharing program so that state and local governments can count on the assistance it provides as they make their budget decisions. It is a program which has become the cornerstone of the federal-state-local relationship. It deserves your support and prompt action.

STATEMENT BY THE HONORABLE KENNETH A. GIBSON, MAYOR OF NEWARK, N.J. AND PRESIDENT OF THE UNITED STATES CONFERENCE OF MAYORS

Mr. Chairman, Members of the Senate Finance Committee. I am Kenneth A. Gibson, Mayor of Newark and President of the United States Conference of Mayors, the national spokesman for Mayors of virtually all cities with population in excess of 30,000. I am here today, on behalf of the nation's Mayors, to endorse the immediate reenactment of the State and Local Fiscal Assistance Act of 1972. I appreciate this opportunity to appear before you today to express my views and the views of the Conference of Mayors on this very important program. As you will recall, Mr. Chairman, when the present revenue sharing law was being debated in Congress, I travelled to Washington on many occasions to join in the debate to urge passage. I am indeed pleased, therefore, to be here today to share with you my assessment of the program and how well the program has met its objectives.

The Conference was an early and active proponent of general revenue sharing. As early as 1966, we urged the federal government to adopt a tax-sharing program, which would return directly to local communities a portion of the federal income tax without condition as to use. The nation's Mayors joined with other local officials as well as State officials to achieve the enactment of the program in 1972. But, without the fine leadership you, Mr. Chairman, provided in 1972, we would not have been successful. And, your continued support and leadership are the key to a successful reenactment effort. Local elected officials were united in 1972 and we are united today in calling for an extension of revenue sharing. We are united because we believe that a Federal, State and local partnership within the federal system can best be obtained by allocating responsibilities consistent with fiscal resources. General revenue sharing, block grants and categorical grants are essential elements of a program of federal fiscal assistance designed to realize a strong and balanced federal system, a principle to which our National is committed. The general revenue sharing program has restored some balance to the system by making available to State and local governments a significant portion of revenues from the most efficient and equitable revenue source in our Nation, the federal income tax. This balance must be maintained.

This is why the United States Conference of Mayors, in July at its 44th Annual meeting, reaffirmed its policy which strongly endorses the continuation of the general revenue sharing program and called for its immediate reenactment. Attached to this statement is the Policy Resolution on General Revenue Sharing adopted this year by the Conference. The key elements of our policy are: (*a*) Immediate reenactment of the program; (*b*) an annual growth factor in the funding level sufficient to compensate local government for losses due to inflation; (*c*) program to be continued for not less than five and three-quarter years with consideration of future extensions to commence at lease two years prior to the expiration of the existing law; (*d*) program to be authorized and committed on a continuing basis unrestricted by the annual appropriations process; (*e*) a guarantee of non-discriminatory expenditure of funds with adequate provision for due process for all individuals and governments involved; and (*f*) an accurate population count must be developed or some method devised to distribute the numbers of persons known to have not been counted among the population centers where they are presumed to reside.

I should like to highlight some of these elements for your consideration.

CONTINUATION OF THE PROGRAM

As originally enacted, general revenue sharing had the following objectives: (*a*) To relieve the fiscal problems of hard-pressed local governments having inadequate or inflexible tax bases; (*b*) to reduce the regressive burden of State and local taxes by substituting revenues from progressive federal income taxes; and (*c*) to give people at the local level the resources and the flexibility to develop solutions suited to their unique problems.

These objectives are relatively modest but important—a fact which somehow has gotten lost in the current debate on the merits and the problems of the program. When the record is matched against these three goals, we find that the program has been a good one and is indeed worthy of continuation. In most instances, revenue sharing monies have been used to develop and implement programs responsive to meet the needs at the local level. Drug abuse programs, improved police protection, subsidized transportation for the elderly, new sewage treatment facilities, recreation programs for youth, and hot lunches for the elderly are just a few examples of such undertakings.

Due to the economic recession of the past two and a half years, the fiscal relief objective has yet to be realized. Because of the negative effects of double-digit inflation, soaring energy costs, and high levels of unemployment, most of our cities and many of our States are faced with, and will continue to be faced with, substantial service deficits. We have been forced to cut essential municipal services, lay off personnel, raise local taxes and/or postpone necessary capital improvements to prevent service deficits from becoming illegal dollar deficits. All of those actions at the local level run counter to current federal actions to stimulate the economy. It has been estimated by the Joint Economic Committee that in Fiscal 1976, State and local government tax and expenditure adjustments have removed $7.5 to $8.0 billion in desperately needed fiscal support and stimulus from the economy. If the general revenue sharing program is not continued or if reenactment is delayed, local budget adjustments would be of such magnitude that the nation's economic recovery, albeit weak, would be in serious jeopardy.

The regressive burden of local taxes has been eased in many instances because of revenue sharing. As the chief local elected official, we Mayors know how harmful excessively high property and sales tax are to our communities. Industry and middle-income citizens are driven from our central cities, their flight facilitated by our national housing and transportation policies, while the unskilled, the jobless and the elderly remain behind. These changes have meant increased service demands on city government at the same time that the ratable base on which property taxes can be levied to pay for them has decreased severely. In the City of Newark ratables have dropped by 20 percent during the last decade, and if inflation were calculated, the loss would be even greater. Cities, therefore, have had to raise their taxes higher and higher to meet the increased costs of inflation and increased service demands from shrinking tax bases, thus perpetuating the problem. For Newark, and for most of our cities holding down property taxes, and/or reducing them is indeed a worthwhile use of revenue sharing monies.

Before revenue sharing began, Newark's property tax rate was $0.63 per $100 assessed valuation. Because we were able to use our revenue sharing dollars to meet the costs of basic service delivery, we were able to stablize our property taxes and break an ever-rising property tax spiral that had already cost us hundreds of businesses and left us with thousands of abandoned houses. Because of revenue sharing and our own efforts to cut costs and increase efficiency, we were able to reduce our property tax burden two years in a row. But, due to the current economic recession, this downward, healthy trend in our property tax rate came to an abrupt halt in 1975. If we are to achieve any success at all in our efforts to stablize this problem, we must be able to count on the continuation of the only program which enables cities to provide vital city services while reducing the regressive burden of local taxes. This program is General Revenue Sharing.

This program of sharing federal revenues receives upport from not only local and State government officials. Studies conducted on general revenue sharing point out that there is general satisfaction with the program, not only among local officials but among the citizenry at large. Moreover, the Brookings Institution research on the political effects of revenue sharing indicates that for a significant number of governmental units examined, revenue sharing has stimulated citizens and organizations to look to a greater degree to city, county and state governments to meet their needs.

General revenue sharing has also, "opened-up" the operations of local governments so that our activities are in the public's eye more than ever before. Now, pressure for progress is being applied by community organizations at our level whereas, before revenue sharing, attention was focused at the national level. Such program results as these help to maintain a strong, balanced federal system.

The U.S. Conference of Mayors endorses the continuation of revenue sharing because it is a necessary element of the Federal aid system. It is a compliment to—not a substitute for—categorical interest and block grants which support local programs in broad, functional areas of national interest. Revenue sharing monies are used for priorities set by local elected officials which may vary from one community to another and for which categorical grant aid may not be available. Revenue sharing assistance is general support assistance to reduce the fiscal disparities of our intergovernmental system. Each of these three elements must be in place and operating concurrently to assure a federal system effectively meeting the needs of the people.

LEVEL OF FUNDING

A major element in the U.S. Conference of Mayor's policy on general revenue sharing is the level of funding of the program and the amount of annual increase in the total amount of shared revenue. The current program provides for a very modest annual increase of $150 million—this translates into an annual rate of increase at 2.5 percent. This has been woefully inadequate given that inflationary rates plaguing city budgets during the past three years have been hovering around 15 percent annually. Alan Campbell, Dean of the Maxwell School of Public Affairs has documented that between 1972 and 1974, cities, counties and townships lost about $3.3 billion of purchasing power due to inflation. This amount is equivalent to approximately 80 percent of their total general revenue sharing entitlement in 1974.

As employers and consumers, cities can attest to the destructive impact of inflation. As employers, cities must keep pace with the ever-escalating wage settlements in the private sector. As consumers, cities confront daily increases in the costs of natural resources and materials. Fuel costs have soared dramatically; costs of such necessary items as chemicals and asphalt continue to climb. The current economic crisis has seriously undermined the capacity of many of our cities to provide those essential public services for which they are accountable.

Federal fiscal assistance to States and local governments has not kept pace with the soaring costs these governments face. The community development program—a program highly sensitive to inflationary pressures due to its construction nature—contains no annual growth factor. Increases in domestic social service programs have been minimal, at best. And, the 2.5 percent annual increment in the current revenue sharing program translates into a "real" decline. Cities' expenditures cannot continue to increase while our revenues continue to lag behind. Our efforts to keep these two in line have had disastrous effects on

our city residents. The marginal employees, the minorities, the young and the older workers as well as the elderly on fixed incomes reside in our cities in great numbers. They have already suffered unduly as a result of our current economic crisis. We cannot expose them to further hardships.

To prevent this from occuring, the U.S. Conference of Mayors strongly recommends that the funding level of the general revenue sharing be sufficient to compensate State and local governments for the higher costs they face. The Administration's proposal of continuing the annual increment at $150 million is not acceptable. Brookings Institution has demonstrated that in real terms, the value of revenue to be shared with State and local governments over the decade 1972 to 1982 (general revenue sharing began in 1972 and, if the Administration's proposal is passed, will carry through to 1982) will decline by 24 percent. The Conference of Mayors believes that unless the annual increment in program funds reflects increased costs, cities and states will be unable to cope effectively with the fiscal disparities they face. We strongly urge, therefore, that the annual increment in the revenue sharing funds be increased to not less than $350 million. This translates into a growth rate of approximately 5.0 percent—a rate more in keeping with what inflation projections are.

MULTIYEAR EXTENSION

The U.S. Conference of Mayors strongly endorses a five and three-quarter year extension of the program. This length of time would provide the necessary long-term commitment to state and local government. Without this long-term Federal commitment, the budgetary planning processes of State and local government would suffer. Priority-setting would be rather short-range and the programs developed to meet these priorities would be viewed as transitory rather than permanent. During the past four years, we have found that the guarantee of revenue sharing funding has motivated many cities to examine their priorities in a multi-year context. We have developed some long-range strategies for dealing with some of our problems. The uncertainty connected with a short-term Federal commitment would surely undermine cities' ability to deal effectively with the pernicious nature of urban problems.

The Conference also recommends that Congress begin its consideration of future extension of the program at least two years prior to the expiration of the existing law. Local budgetary planning has been severely disrupted during the past year because of Federal legislative inaction. Congress' delay in re-enacting general revenue sharing has particularly hurt those cities which budget on a July 1 fiscal year. They were forced to adopt budgets for an entire year but which contained only six months of revenue sharing money. These cities had no other choice since they did not know whether the program would be continued, or if continued, whether it would be substantially altered. If we are ever to achieve effective long-range program planning at the local level, we must have some degree of certainty from the federal government about the future of major programs such as general revenue sharing. This certainty could be obtained if federal legislative consideration of future extension of the program begin at least two years prior to expiration of the existing law.

METHOD OF FUNDING

The Conference of Mayors strongly endorses entitlement funding of the general revenue sharing program. This would guarantee continuity and dependability of funds at the local level. More importantly, entitlement funding does not violate the Congressional Budget and Reform Act of 1974—an Act which the Conference of Mayors actively supports. Entitlement would provide a degree of funding so that our cities could develop and implement sound strategies to deal with our urban ills. Without this certainty, we would be forced to program plan on a year-by-year piecemeal approach—certainly a most ineffective strategy to attack the kinds of problems our cities face.

CIVIL RIGHTS ENFORCEMENT

The U.S. Conference of Mayors has been a long time advocate of strong civil rights enforcement and believes in non-discriminatory use of all monies spent at the local level. However, federal civil rights enforcement requirements are oft times duplicative and contradictory in nature. We recommend that a strategy

be developed to consolidate and coordinate federal civil rights enforcement in general and that due process be observed in any withholding of funds from local government.

POPULATION COUNT

The distribution of revenue sharing funds occurs through a formula. However, the formula is only as good as the quality of the data used. If the data are inaccurate, the formula loses its credibility and a maldistribution of funds occurs. This is precisely what has happened with the population figures used in the general revenue sharing funds. By the Bureau of Census' own estimate, an almost eight percent undercount occurred in the 1970 Census of Population primarily in the Black and Latino populations. Our central cities have been and continue to be penalized in their formula allocations because of this undercount. The U.S. Conference of Mayors urges Congress and the Administration to develop some method of accurately counting the population or of distributing the numbers of persons known to have not been counted among the population centers where they are presumed to reside. For many of our larger cities, an eight percent undercount of the majority population represents a significant loss of funds they would otherwise be receiving.

Mr. Chairman, I would like to conclude my remarks by reaffirming the commitment the Mayors of the nation have to the general revenue sharing program. We believe that it is essential to a healthy urban American and a vital link in our intergovernmental fiscal system. We feel that we have expended and accounted for these funds in sound and uniform methods. We feel that the program has survived its "testing" period quite successfully. We look forward to working with this Committee and with the Senate on this very important piece of legislation. The U.S. Conference of Mayors hopes that you will move decisively in the next few weeks to insure immediate enactment of the general revenue sharing program and that the final legislative package will reflect the suggestions and recommendations that I have expressed today.

Thank you.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., July, 1976.

UNITED STATES CONFERENCE OF MAYORS POLICY RESOLUTION ON GENERAL REVENUE SHARING ADOPTED AT 44TH ANNUAL CONFERENCE, MILWAUKEE

Whereas the General Revenue Sharing program has become an integral part of the Federal system and has strengthened the role of local government in that system; and

Whereas local citizens view their locally elected officials as being accountable for the expenditures of revenue sharing dollars, and such accountability has invigorated the local decision-making process; and

Whereas the majority of local governments' revenue sharing funds are being used to maintain and improve basic urban services such as police and fire protection, sanitation collection, mass transportation, health care facilities and numerous other vital city functions as well as many innovative programs that otherwise could not have been developed; and

Whereas the costs of and demands for these basic city services have increased at alarming rates over the past several recession years and the purchasing power of the revenue sharing funds since the 1972 enactment has been eroded 20 percent; and

Whereas this is especially a factor for the older, densely populated central cities, which must provide higher levels of service to greater numbers of people, oftentimes with a diminishing tax base from which to secure local funds; and

Whereas currently central cities are being penalized in their formula allocations because of a significant undercount, between seven and eight percent, in the 1970 census of population occurring primarily in the black and Latino populations and to a lesser degree in other traditional segments of the population; and

Whereas due to the Congress' inaction, many local governments have suffered disruptions in their budgetary process and have been denied the time necessary to adequately plan for levels of funding; Now, therefore, be it

Resolved, That the U.S. Conference of Mayors reaffirms that the reenactment of the General Revenue Sharing program is one of the highest legislative priorities for the 94th Congress; and be it further

Resolved, That the U.S. Conference of Mayors pledges its support to vigorously work for and to actively press the 94th Congress to reenact general revenue sharing immediately; and be it further

Resolved, That the U.S. Conference of Mayors endorses an increase in the annual funding level of the General Revenue Sharing program to compensate for inflation; and be it further

Resolved, That the U.S. Conference of Mayors urges the Congress and the Administration to develop a more accurate method of counting the population than presently exists or of distributing the numbers of persons known to have been undercounted among the population centers where they are presumed to reside; and be it further

Resolved, That the U.S. Conference of Mayors endorses the position that the new program should be continued for not less than five years with consideration of future extensions to commence at least two years prior to the expiration date of the existing law; and be it further

Resolved, That the U.S. Conference of Mayors reaffirms its position that the new program should be authorized and committed on a continuing basis, unrestricted by the annual appropriations process as provided for by the Congressional Budget and Reform Act of 1974, in order to guarantee continuity and dependability of funds; and be it further

Resolved, That the U.S. Conference of Mayors calls upon the Federal government to include in the civil rights provisions of the Act a guarantee of nondiscriminatory expenditure of funds with adequate provision for due process for all individuals and governments involved; and be it further

Resolved, That the adoption of this resolution addresses itself to the legislation now before Congress and does not prevent this Conference, at a later date, from considering changes in criteria for distribution of funds or a higher level of funding.

STATEMENT OF THE HONORABLE JOHN POELKER, MAYOR OF ST. LOUIS, ON BEHALF OF THE NATIONAL LEAGUE OF CITIES

The following is a summary of points made in the attached testimony:

1. We urge the Senate to extend the revenue sharing program for a minimum of 5¾ years.

2. We urge the Senate to adopt the entitlement financing mechanism contained in the House bill. Entitlement financing will provide guaranteed long-term funding completely within the context of the Budget Reform Act.

3. We urge the Senate to adopt at least a $350 million annual growth rate for the revenue sharing program. One of the principle defects of the House bill is its failure to provide a modest rate of growth for the program. This represents a very modest 5.0 percent growth rate in FY 78, declining to 4.1 percent by FY 82.

4. We urge the Senate to adopt the current revenue sharing formula. However, in order to allow the formula to achieve its objectives, the 175 percent local government cap should be gradually raised to 175 percent.

5. We urge the Senate to simplify and make more responsive the citizen participation, reporting and publication provisions contained in the House-passed bill. Specifically, (a) all hearings, publication and reporting requirements should be linked with each recipient government's fiscal year and not with the federal government's fiscal year; (b) only the actual use report should be sent to the Office of Revenue Sharing; (c) the planned use report should be locally generated, and should not be required to conform to arbitrary categories established by the federal government; and (d) prior to the beginning of each entitlement period, each local government should sign and return to ORS an assurance form that would pledge compliance with all the provisions of the Act.

6. We urge the Senate to adopt suitable civil rights language which guarantees due process for both the citizen and local government.

7. We urge the Senate to adopt realistic auditing provisions which would require regular, periodic audits of revenue sharing funds. The provision in the House bill for annual audits is impractical and exorbitantly expensive.

Mr. Chairman, and Members of the Finance Committee, I am John Poelker, Mayor of St. Louis, and I am testifying on the behalf of the National League of Cities. The National League of Cities represents nearly 15,000 cities, and

earlier this year the League's Board of Directors, on which I serve, established the reenactment of the general revenue sharing program as the highest legislative priority of the nation's cities. On behalf of our entire membership I wish to commend the Finance Committee for its prompt consideration of this vitally important legislation.

I would like to submit for the record a copy of the National League of Cities' revenue sharing policy statement. This policy was developed by NLC's Revenue Sharing Task Force which is co-chaired by Mayor Moon Landrieu of New Orleans and myself. It was presented to, and unanimously ratified by, the full membership of the National League of Cities at our annual convention. Since our convention, the Revenue Sharing Task Force has continued to meet to further develop and refine the policy of the organization. The Task Force looks forward to playing an active role in the Senate proceedings and stands ready to assist this Committee and the Congress in achieving reenactment.

Before addressing the specific issues surrounding the reenactment legislation, I would like to take a few moments to clearly focus the general revenue sharing program within the broader context of our intergovernmental fiscal system. As our policy statement indicates, the National League of Cities is committed to a comprehensive approach to federal fiscal assistance to urban America. General revenue sharing, block grants, and categorical grant-in-aid programs are the essential vehicles by which the federal government transfers billions of dollars to state and local governments. Each of these three delivery mechanisms represents a markedly different approach to federal assistance—but approaches whose goals and objectives are complementary. General revenue sharing must be considered within this overall context. It is one piece of an extremely large and diverse intergovernmental system which also contains over 900 categorical grant-in-aid programs and 4 block grant programs. Attachment I graphically displays revenue sharing within this larger context.

In addition, revenue sharing must be considered in the context of the pressing fiscal conditions facing local governments. I do not need to repeat the statistics—I am sure this Committee is all too familiar with the devastating impact that double-digit inflation, double-digit unemployment, and double-digit interest rates have had on our nation's cities.

I would finally like to remind this Committee of the importance of state and local government to the nation's economy. The magnitude of the state and local sector requires the federal government to develop a coordinated intergovernmental approach to solving our economic problems. As of 1972, 47.5 percent of all government expenditures took place at the state and local levels, and employment at those levels was four times greater than federal employment. With the public sector accounting for more than 32 percent of the gross national product, and state and local governments accounting for over 45 percent of the combined public sector, common economic sense should dictate federal sensitivity to the budgetary problems facing state and local governments.

Unfortunately, there are many members of Congress who do not understand, or do not wish to understand, the importance of the revenue sharing program in maintaining budgetary stability at the local level. There are those who argue that the program should be terminated—there are those who argue that only a short term extension should be granted. I would only remind these critics that a healthy national economy cannot be achieved unless fiscal stability and economic prosperity return to our cities. Without revenue sharing, the nation's cities will be forced to take counter-productive budgetary actions which will seriously undermine an already weak economic recovery.

We believe that the extensive research that has been conducted on the revenue sharing program, coupled with the data that has been supplied by individual communities to their Congressional delegations clearly show that the revenue sharing program is accomplishing its intended objectives. These objectives are: (*a*) Relief from the escalating fiscal pressures on state and local government; (*b*) relief from the regressive burden of state and local taxes; and (*c*) flexibility to develop innovative solutions to the complex problems which plague our urban environment.

In addition revenue sharing also strengthens the essential function which local governments play in our federal system—functions which include the dispersal of governmental powers, opportunities for direct citizen participation, the capacity to be responsive to local needs, the capacity to effectively implement national goals in local situation, the potential for experimentation, and the diversity which supports long term stability and effectiveness.

In judging the program, the Congress must keep in focus these objectives, and must not attempt to thrust upon revenue sharing the burden of correcting all

the weaknesses in the American federal system. The unique and distinctive objectives of revenue sharing, block grants, and categoricals must be recognized and each must be judged accordingly.

Given these introductory remarks, I would now like to turn my attention to the specific provisions of the revenue sharing legislation.

We urge the Senate to extend the revenue sharing program for a minimum of 5¾ years.—While NLC remains committed to establishing revenue sharing as a permanent feature of our intergovernmental system, we believe that a 5¾ year extension will provide the necessary long-term fiscal commitment to state and local government.

We urge the Senate to adopt the entitlement financing mechanism contained in the House bill.—Entitlement financing will provide guaranteed long-term funding completely within the context of the Budget Reform Act.

Unfortunately, there has been a great deal of misunderstanding regarding entitlement financing. There are those who argue that all entitlement financing is a form of "back-door" spending which violates both the Budget Reform Act and the prerogatives of the Appropriations Committees. In order to clarify how entitlement financing relates to revenue sharing, I am attaching some background information which should prove informative (see Attachment II). I would just reemphasize two points: (*a*) Entitlement financing does not violate any of the provisions of the Budget Reform Act; and (*b*) Entitlement financing will assure long-term revenue sharing funding completely within the context of the newly established Congressional budget process.

We urge the Senate to adopt at least a $350 million annual growth rate for the revenue sharing program.—One of the principal defects in the House bill is its failure to provide a modest rate of growth for the program. The House bill freezes the program at $6.65 billion annually, in spite of the fact that the existing $150 million annual growth rate has proven totally inadequate in terms of compensating for the declining "real dollar value" of revenue sharing funds. $150 million is approximately 2.2% of $6.65 billion, while city governments have experienced an inflation rate in excess of 10% over the past 7 years.

We would hope that this Committee would take a very careful look at a study done by the Metropolitan Studies Program at Syracuse University entitled The Impact of Inflation on the Expenditures and Revenues of Six Local Governments, 1971-1974. This report concludes that ". . . the widely and heralded General Revenue Sharing program is virtually devoid of any element of inflation responsiveness. Coming as such aid does, from a fund of predetermined size, it is difficult not to conclude that its inability to supplement basic allocations during periods of inflation is a major flaw in the present General Revenue Sharing program."

To substantiate this conclusion, the study analyzes projected revenues and expenditures growth due to inflation, projected expenditures-revenues gaps due to inflation and estimated general revenue sharing entitlements through 1979 in six local governments. The revenue sharing payments are based on projections made from the Administration's reenactment bill which continues the $150 million annual increase. Table III shows that revenue sharing payments will not cover the inflation-caused budgetary shortfalls in the six communities. In fact in Atlanta, New York, and Snohomish County, revenue sharing payments will account for less than 30 percent of the projected shortfalls.

I would also refer this Committee to Dr. Richard Nathan's testimony before the House Budget Committee on September 18, 1975. Dr. Nathan, who is Director of the Brookings Institution Revenue Sharing Monitoring Project told the Budget Committee:

> A central fact about the revenue sharing program is its failure to keep up with inflation. In real terms, the value of shared revenue to the 39,000 state and local governments that received these payments has declined. . . . This cumulative shortfall of $11.8 billion means that the 1982 allocation will, in real terms, be 24 percent below the 1972 allocation . . .

While the National League of Cities would ideally like to see the revenue sharing program tied to a given percentage of the federal personal income tax base, we are aware of the Congressional opposition to further "indexing" of federal programs. Therefore, we would urge the Committee to report a revenue sharing reenactment bill, which provides for at least a $350 million annual increase in the funding level. This represents a very modest 5.0 percent growth rate in fiscal year 1978, declining to 4.1 percent by fiscal year 1982.

We urge the Senate to adopt the current revenue sharing formula. However, in order to allow the formula to achieve its objectives, the 175 percent local gov-

ernment cap should be gradually raised to 175 percent.—We believe that the present revenue sharing formula, which includes population, a measurement of fiscal capacity (tax effort), and a measurement of need (per capita inome) provides for an equitable distribution of funds.

Unfortunately, there has been a great deal of misunderstanding regarding the responsiveness of the revenue sharing formula to relative "needs." It should be understood that the present formula is responsive to "needs"—that the funds are not distributed on a simple per capita basis. For example, most central cities, when judged by a variety of measurements, clearly have a larger "needy population" than their surrounding suburbs. Tables IV and V help to illustrate this point. Table IV shows that within SMSA's, the central cities receive a much higher proportion of shared revenues than is their share of the population. Table V shows the per capita revenue sharing allocation for selected central cities and their wealthy suburbs.

We urge the Senate to simplify and make more responsive the citizen participation, reporting and publication provisions contained in the House passed bill.—The House, in its efforts to improve the program, failed to adequately distinguish between the dual objectives of the public disclosure requirements. These objectives can be identified as follows: (*a*) To promote more effective citizen participation in the revenue sharing decision making process; and (*b*) to provide more meaningful information to the federal government as to the effects of general revenue sharing funds on local budgets.

Unfortunately, the specific provisions of HR 13367 do not accomplish these two objectives. Table VI details the provisions in the House bill. It can be seen that these provisions require submission of the planned use report to the Office of Revenue Sharing prior to the beginning of the federal government's fiscal year (October 1). For most cities this submission date has no relevancy to the local budgetary cycle. Since the planned use report must contain cross-references to the entire local budget and since its primary purpose is to better equip local citizens to participate in the local budgetary process, it makes absolutely no sense to tie this report to the federal government's fiscal year. Using the example outlined on the chart, a local government with a July 1–June 30 fiscal year would be required to hold hearings and then submit its planned use report to ORS two months after the adoption of its budget. Citizens would be asked to participate in a budgeting process that was already completed. ORS would be inundated with planned use reports which were in fact actual use reports.

In order to meet the dual objectives outlined above, we wish to make the following recommendations: (*a*) All hearings, publication and reporting requirements should be linked with each recipient government's fiscal year and not with the federal government's fiscal year. Without this integration, citizens will be asked to participate in an essentially meaningless planning and budgetary process, (*b*) Only the actual use report should be sent to the Office of Revenue Sharing. The information contained in the planned use report is of little value to the federal government. The actual use report detailed in H.R. 13367 provides all the information that should be of interest to the federal government. In addition, the reporting categories in the Actual use report should follow the budgetary categories used in the Bureau of Census for general statistical purposes, (*c*) The planned use report should be locally generated, and should not be required to conform to arbitrary categories established by the federal government. The purpose of the planned use report is to inform the public about tentative decisions regarding the allocation of revenue sharing funds. Each community should be free to devise its own form to meet this objective; and (*d*) Prior to the beginning of each entitlement period, each local government should sign and return to ORS an assurance form that would pledge compliance with all the provisions of the Act. This form would also contain an estimate from ORS regarding the recipients' revenue sharing allocations for the upcoming entitlement period.

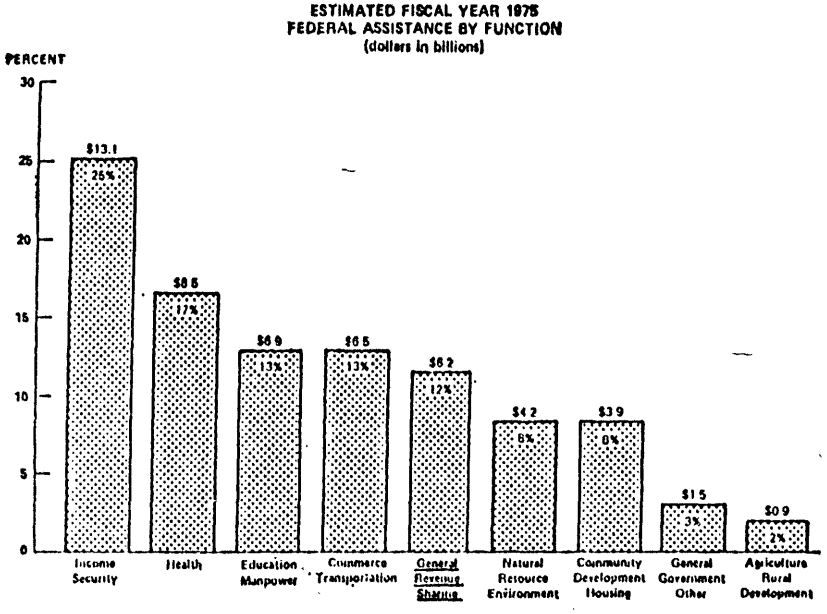
We urge the Senate to adopt suitable civil rights language which guarantees due process for both the citizen and local government.—City officials agree that the rights of individuals is of utmost importance. However, provisions dealing with civil rights must be workable and fair to all parties, including those citizens and institutions who would be adversely affected if funds were precipitously cut-off without preliminary opportunity for due process. Since the Treasury will be responsible for both the revenue sharing program and the countercyclical assistance program, the civil rights provisions in both of these laws should be compatible.

We urge the Senate to adopt realistic auditing provisions which would require

regular, periodic audits of revenue sharing funds. The provision in the House bill for annual audits is impractical and exorbitantly expensive.—Periodic audits, perhaps every three years, will provide adequate assurances to the public that the revenue sharing funds are being properly spent.

I appreciate the opportunity to present these views on behalf of the National League of Cities. I would conclude by saying that during the past 4 years revenue sharing has become an integral part of local budgets—in community after community, it is providing the fiscal underpinning for the maintenance of essential government services. I firmly believe that government officials at all levels—federal, state and local—can take pride in its accomplishments. Its success is directly attributable to its simplicity, its flexibility, and its certainty. I urge the Committee to act favorably on our recommendations to insure an effective continuation of the revenue sharing program.

ATTACHMENT I



Source: Report to the Congress by the Comptroller General of the United States. "Fundamental Changes Are Needed in Federal Assistance to State and Local Governments," Aug. 19, 1975.

ATTACHMENT II

QUESTION & ANSWER FACT SHEET ON ENTITLEMENT FINANCING FOR REVENUE SHARING

Question. Does entitlement financing provide state and local government with a high degree of certainty regarding their revenue sharing payments?

Answer. Yes; once the legislation has worked its way through the procedures of the Budget Act, including the referral to the Appropriations Committee if necessary, then the funding would be guaranteed for the duration of the program.

Question. Does entitlement financing violate the Senate Rules? Is it subject to a point of order on the Senate floor?

Answer. No; entitlement financing is a recognized form of spending under the Budget Act. Annual jurisdiction over entitlement programs by the Appropriations Committee was specifically rejected by the House/Senate Conference Committee on the Budget Act. (The House-passed bill would have made all entitlement programs subject to the Appropriations process.) Instead, the Conferees

agreed to provide the Appropriations Committee with a limited 15-day review of entitlement programs, if the funding exceeds the dollars provided in the latest Budget Resolution. (See Attachment "Entitlement Financing as Defined by the Budget Reform Act").

Question. Would entitlement financing prevent Congressional review and scrutiny of the revenue sharing program?

Answer. No; while entitlement financing would provide assured funding for the duration of the revenue sharing program, it would not prevent Congress from revewing the program at any time. For example: (*a*) The Senate Finance Committee has the authority to conduct oversight of the revenue sharing program, and at any time could report legislation to alter the nature of the entitlement. (*b*) Entitlement programs must be included in the Congressional Budget Resolutions. The Budget Committee could at any time review the program and recommend that the entitlement be reduced. (*c*) During the 15-day referral to the Appropriations Committee, the Committee has the opportunity to review and offer an amendment to the program. However, this referral only takes place during the year the entitlement is being enacted.

ATTACHMENT II-2

ENTITLEMENT FINANCING FOR REVENUE SHARING

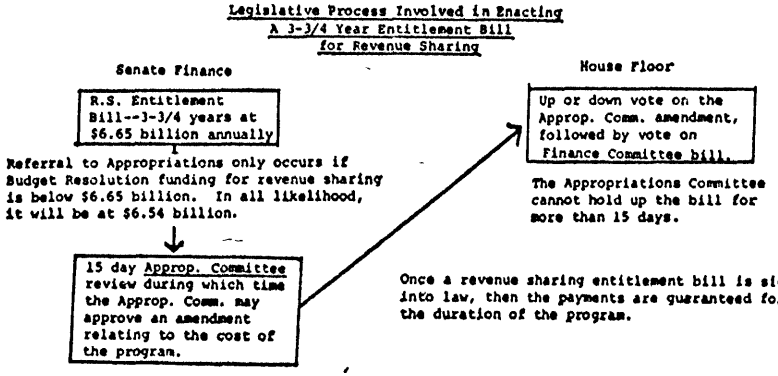
Entitlement financing is a recognized form of spending under the Budget Reform Act of 1974. Section 401(C)(2)(c) of the Budget Act defines entitlement financing as the authority: "to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."

Entitlement financing is not a form of "back-door" spending. It is subject to carefully defined procedures. For example:

Entitlement legislation is not exempted from any provision of the Congressional budget process. It must: (1) Compete with all other programs for funding in the Congressional Budget Resolution; and (2) it must abide by the calendar requirements established by the Budget Act.

All new entitlement legislation emerging from Committee must be referred to the Appropriations Committee if the legislation generates spending over and above the spending that is contained in the most recent Budget Resolution. The Appropriations Committee is given 15 days to review the legislation, after which it must report the bill to the Senate floor. An amendment to the entitlement legislation may be offered by the Appropriations Committee, and may accompany the bill to the floor. (The Appropriations Committee amendment may only pertain to the funding level and not to any other provision of the entitlement legislation). Once on the House floor, the Appropriations Committee amendment (if any) is voted upon, followed by a vote on the entitlement legislation.

Once an entitlement bill has been enacted into law, payments are automatically made for the duration of the program.



ATTACHMENT II-3

ENTITLEMENT FINANCING AS DEFINED BY THE BUDGET REFORM ACT OF 1974

The Congressional Budget and Impoundment Control Act of 1974 defines three types of new spending authority, one of which is entitlement financing. Section 401(C)(2)(c) defies entitlement financing as the authority: "to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law."

One of the principle objectives of the Budget Reform Act is to bring so-called "back-door spending" within the scope of the appropriations process. Section 401(C)(2) defines three types of new spending authority and Sections 401 (a) and (b) set forth their relationship to the appropriations process. The Budget Act does not require that all new spendng authorty be dependent upon subsequent actions by the Appropriations Committees. Distinctions are drawn between the three types of spending and specific exemptions are provided. The first two types of new spending authority, which are defined as contract and borrowing authority, must contain a provision that funding is effective only to the extent such amounts are provided in a subsequent appropriations act (Section 401(a)).

However, the conference committees which reconciled the difference between the House-passed and Senate-passed versions of the Budget Act declined to apply blanket Appropriations Committee jurisdiction to the third type of new spending authority, entitlement financing. The Conference Report stated (Section 401(b) Entitlement Authority):

> "The House bill provided that new entitlements could be effective only as provided in appropriation acts (the same procedure as for contract and borrowing authority). The Senate amendment established a procedure for the referral of entitlement legislation to the Appropriations Committees under a 10-day time limit.
>
> "The conference substitute, like the Senate amendment, provides that it shall not be in order to consider entitlement legislation which would have an effective date before the start of the new fiscal year. The purpose of this procedure is to make entitlements effectively subject to the reconciliation process. As provided in the conference substitute entitlement legislation would be referred to the Appropriations Committee only if it would generate new budget authority in excess of the allocation made subsequent to the latest budget resolution (as specified in Section 302). The Managers intend the Budget Committees shall provide background information as to such allocations. Such referral would have a 15-day limit, with the Appropriations Committee automatically discharged if it has not reported during this period. The Appropriations Committee may report the bill with an amendment limiting the total amount of new entitlement authority. The managers emphasize that the jurisdiction of the Appropriations Committees shall relate to the cost of the program and not to substantive changes in the legislation."

In addition, the conference committee agreed to exempt certain types of programs from the new procedures for contract, borrowing, and entitlement authority. These are: all existing social security trust funds; 90 percent self-financed trust funds; general revenue sharing to the extent provided in subsequent legislation; the outlays of certain government corporations; and gifts to the United States.

The entitlement mechanism agreed to by the House does not activate the revenue sharing exemption. Instead, it defines revenue sharing as an entitlement program subject to all the provisions of the Budget Control Act.

TABLE III.—PROJECTED REVENUE AND EXPENDITURE GROWTH DUE TO INFLATION, PROJECTED EXPENDITURE-REVENUE GAP DUE TO INFLATION, AND ESTIMATED GENERAL REVENUE SHARING ENTITLEMENTS, 1979

	Expenditure growth due to inflation, 1974-79	Revenue growth due to inflation, 1974-79	Expenditure-revenue gap due to inflation, 1979	Revenues as a percent of projected expenditures, 1979	General revenue sharing entitlement, 1979	Entitlement as a percent of projected budget gap, 1979
Atlanta	$46,688,000	$17,502,250	$29,185,750	37.5	$8,205,675	28.1
Erie County	78,608,981	63,613,069	14,995,912	80.9	11,871,301	79.2
Lexington	704,298	378,997	325,301	53.8	210,522	64.7
New York City	2,810,289,262	1,393,296,003	1,416,993,259	49.6	292,984,100	20.7
Orange County	61,331,916	45,621,860	15,710,056	74.4	12,678,272	80.7
Snohomish County	9,319,805	6,268,957	8,692,848	67.8	2,232,290	25.7

Source: Calculated from table IV-A and IV-B, and "Budget of the United States Government, Fiscal Year 1976." Compiled by the Metropolitan Studies Program of the Maxwell School of Citizenship and Public Affairs, Syracuse University.

TABLE IV.—PERCENTAGE DISTRIBUTION

	Inside SMSA's				
		Central portions			
	Total	Central cities	Other local governments	Outlying portions	Outside SMSA's
Shared revenue	69.8	30.9	27.8	11.1	30.2
Population	68.9	15.5	37.6	15.9	31.1

Source: App. A, "Analytical Approach for Considering Comparative Local-Area Benefits From Federal Revenue Sharing," Allen D. Manvel, May 30, 1975, p. 26.

TABLE V.—PER CAPITA REVENUE SHARING ENTITLEMENTS IN SELECTED CENTRAL CITIES AND THEIR SUBURBS

Central city and suburban cities	Per capita income	Per capita entitlement
Los Angeles	$3,951	$12.56
Beverly Hills	11,159	4.33
Cities other than Los Angeles	3,808	6.14
Chicago	3,402	19.89
Winnetka	9,904	3.68
Cities other than Chicago	4,356	6.55
Detroit	3,200	27.79
Grosse Point Farms	9,011	3.83
Cities other than Detroit	3,858	16.24
Minneapolis	3,483	14.50
Edina	6,511	4.11
Cities other than Minneapolis	4,137	4.39
Cleveland	2,281	18.13
Shaker Heights	8,101	2.97
Cities other than Cleveland	4,366	6.49
Milwaukee	3,184	19.38
Fox Point	7,632	4.55
Cities other than Milwaukee	4,070	6.47

Source: "General Revenue Sharing: An ACIR Reevaluation," Advisory Commission on Intergovernmental Relations, October 1974.

CITIZEN PARTICIPATION—H.R. 13367

January 1—
February 1—
March 1—
April 1—
May 25—Budget hearing at least 7 days prior to budget adoption.
June 1—Local budget adopted, and publication of narrative summary of adopted budget within 30 days after adoption.
July 1—Local fiscal year begins.
August 1—Actual Use Report submitted to Treasury at or around August 1.
August 25—Public hearing on Planned Use Report at least 7 days prior to submission.
September 1—Planned Use Report submitted to Treasury at or around September 1.
October 1—Federal fiscal year begins.

STATEMENT OF SPEAKER MARTIN O. SABO, SPEAKER OF THE HOUSE, MINNESOTA

Mr. Chairman and members of the committee, my name is Martin Sabo. I am the Speaker of the House for the State of Minnesota and president-elect of the National Conference of State Legislatures. The conference represents over 7500 legislators from each of the 50 States. I come before you today in support of the most important fiscal assistance program in the Federal system—general revenue sharing. I wish to express our support for the renewal of this vital program. I will address my remarks to those issues raised by H.R. 13367 which most concern the National Conference of State Legislatures.

First, the conference supports the continuance of the allocation formula contained in the current law. Such a formula, according to a study by the Advisory Commission on Intergovernmental Relations, does provide the most equitable distribution of funds among the 50 States and localities.

Second, the National Conference of State Legislatures joins the other public interest groups in supporting *long term multi-year funding*. This position can be achieved through the trust fund approach under the current law, or through entitlement financing as proposed by the House. Neither approach violates the spirit or the letter of the new congressional budget procedures.

Third, the National Conference of State Legislatures feels that the level of funding as proposed in H.R. 13367, $6.65 billion is a satisfactory amount for fiscal year 1977, but the omission of an annual increment will weaken the effectiveness of the program in succeeding years. The current program contains an annual increase, and we believe that a 6% annual adjustment for this purpose would not be unreasonable or irresponsible when compared to the current inflation rate.

Fourth, we would urge this committee to adopt workable anti-discrimination language which provides due process guarantees for aggrieved citizens and for recipient governments. The provision in H.R. 13367 is more strict than the language in the present law, but State and local officials are less concerned with the anti-discrimination *language* and more concerned about procedural safeguards and program administration. State and local governments have been sharply criticized by civil rights advocates who contend that our governments are bastions of discrimination. I do not believe that is true: My colleagues are anxious to comply with prescribed standards. The difficulty facing State and local officials, as well as Federal enforcers, is determining what the relevant Federal law is for any particular situation. This committee can help reduce discrimination in State and local government by:

(1) Adopting anti-discrimination language which improves upon existing law without becoming overly burdensome, and which relates to existing civil rights legislation for Federal-State programs. This language should strengthen the administration and enforcement of anti-discrimination activities, provide procedural safeguards for all the parties, and clarify the intent and goals of that provision.

(2) Recommend a comprehensive review of all civil rights laws which apply to State and local governments and the means used to enforce those laws. We believe that this would reduce the existing duplicating and conflicting rules which we are forced to live with.

Fifth, we concur on the need for improvement of language in H.R. 13367 relating to reports, hearings, and citizen participation.

Finally, the National Conference of State Legislatures wishes to stress the need for changes in the requirements for auditing revenue sharing funds. Attempts to trace revenue sharing funds to identify their net fiscal effects has been complicated by their fungibility: That is, the ease with which they can be transferred within State budgetary accounts as well as between State and local fiscal accounts, thereby losing their identity. In general, H.R. 13367 does not seem to present a consistent view of the fungibility of revenue sharing funds. The audit requirements seem to recognize the fungibility issue while the civil rights provisions and anti-lobbying section of the bill would allow revenue sharing funds to be treated distinct from other revenues. Pending settlement of the fungibility issue, the reference to audits needs to be clarified to establish whether financial audits are required for all State or local funds or may be required only for revenue sharing funds. The House passed revenue sharing bill also makes it a condition of recipient governments to "conduct during each fiscal year an audit of its financial accounts in accordance with generally accepted audit standards". We consider such a principle essential to sound governmental operations. However, such a practice on an annual basis would impose a heavy financial burden on State and local governments. It is my understanding that no State including the State of Minnesota, has an annual audit performed on all of its financial accounts and that perhaps one-third of the States have no annual auditing practices for even part of their accounts. For local governments in Minnesota, such a requirement, as proposed in H.R. 13367, of annual independent audits, would require a radical change in current practices, and increase costs imposed on State and local governments significantly. The cost of an annual independent audit in Hennepin County, one of our model auditing jurisdictions, is $180,000 per year. Even the Federal Government does not totally audit itself annually. Consequently, the National Conference of State Legislatures proposes, with the other public interest groups, that such audits be conducted on a periodic basis, with such intervals to be determined by the Secretary of the Treasury as he feels necessary.

The language of H.R. 13367 refers to accepted audit procedures, a recent meeting of legislative audit officials revealed that currently there are no such procedures. If Congress wishes to create some consistency in this area, we suggest that such audits be limited to financial and compliance audits only, as described in the GAO publication, "Standards for Audit of Governmental Organization, Programs, Activities and Function". The National Conference of State Legislatures also suggests that provision be made for the Secretary of Treasury to be authorized to accept an annual audit of expenditures by a state government or a unit of local government if he determines that the audit complies with a previously determined, definitive set of procedures. Secondly, a state or local government should be required to have all of its funds audited periodically if that government has a minimum annual entitlement of $50 thousand and/or its population is less than 2500. This proposal and its suggested cutoffs are supported by the report on auditing requirements in H.R. 13367 issued by the General Accounting Office.

The National Conference of State Legislatures further recommends that the public and news media have access to auditors' reports and that such audit procedures be associated with currently existing state and local procedures.

The states have increasingly entrusted their political subdivisions with the responsibility of administering state fiscal assistance funds with few strings attached. I urge the Federal Government to similarly recommit itself to strengthening this kind of trust and cooperation between the levels of government, by implementing a revenue sharing program which would defer to the laws and procedures of state and local government. A poll recently conducted by Lou Harris found that the public rated state government more worthy of trust than the Federal Government by a three to one margin. Whether that is an accurate perception is not important here. What is important to note is that the public has confidence in our ability to manage their business and their money. Your support for revenue sharing is a reflection of your confidence that working together in our federal system, we can better serve our common constituents.

I wish to personally thank you, Mr. Chairman and my own Senator Walter Mondale for listening to our suggestions. Together I believe we can develop a more effective and efficient program. I would be pleased to answer any questions you may have at this time.

STATEMENT OF W. W. DUMAS, MAYOR—PRESIDENT, BATON ROUGE-EAST BATON ROUGE PARISH, LA.

I am W. W. Dumas, mayor—president of Baton Rouge-East Baton Parish, Louisiana and past president of the National Association of Counties (NaCo).[1] I am here today on behalf of the Nation's county officials to urge prompt renewal of general revenue sharing.

County officials have several concerns which they hope the Senate Finance Committee will address during its deliberations on this legislation which is of vital concern to every one of our Nation's counties.

I. FORMULA

NACO urges the Senate to continue the distribution of funds to States, counties, and cities using the existing distribution formula which reflects need, population and tax effort.

II. FUNDING

County officials urge the Senate to extend revenue sharing for 5¾ years through 1982, as requested by the President. Revenue sharing is fiscal assistance and as such should be provided on a guaranteed long-term basis. This enables counties to use it as part of its long-term fiscal management and planning. We urge the Senate to approve funding through an entitlement mechanism as contained in the House bill, H.R. 13367.

The original revenue sharing legislation contained an annual increment of $150 million to help counties compensate for the impact of inflation on local budgets. In 1972 this increment may have adequately reflected the rate of inflation, but it certainly does not do so today. Therefore, we ask the Senate to provide a $350 million annual increment. This is less than a six percent growth rate. We believe this amount is clearly justified to help counties keep pace with rising costs over which they have no control.

III. CITIZEN PARTICIPATION AND REPORTING REQUIREMENTS

First, we urge that whatever hearings, publications, and reporting requirements that the Senate makes be linked to a county's fiscal year and normal budget process. The purpose of these requirements is to improve citizen understanding of and participation in county budget decisionmaking. County officials wholeheartedly support this. Since 94 percent of all States counties and cities have fiscal years different from the Federal Government, it does not make sense to have the reporting done on a Federal fiscal basis. (Attachment A to this statement is a list of the fiscal years for counties.) (Attachment B is a letter to NACO from the budget director of Fairfax County, outlining this problem.)

Second, we urge that the requirements of the House bill be simplified so that there will be no additional red tape and paperwork and the costs associated with additional reporting required by the House bill. (Attachment C to this statement is a memorandum from the budget director of Hennepin County, Minnesota which carefully outlines the effect of the House passed language on that county. We believe it gives an excellent insight into the problems counties would face were all of the House language to be adopted.)

IV. AUDITING

We urge that the Senate provide that audits of the use of revenue sharing funds be made on a regular basis and that these reports be made available to the public. In attachment C the Hennepin County officials point out the cost involved in annual independent audit of their county. We believe the audit requirements should insure that the Federal Government and the public understand the use of revenue sharing funds without placing an undue financial and reporting burden on States, counties and cities.

[1] The National Association of Counties is the only national organization representing county government in the United States. Its membership spans the spectrum of urban, suburban, and rural counties which have joined together for the common purpose of strengthening county government to meet the needs of all Americans. By virtue of a county's membership, all its elected and appointed officials become participants in an organization dedicated to the following goals: improving county governments; serving as the national spokesman for county governments; acting as a liaison between the nation's counties and other levels of government; and achieving public understanding of the role of counties in the federal system.

V. USE OF FUNDS

We urge the Senate to allow counties to spend revenue sharing funds for all functions permitted under State and local law. If revenue sharing is to truly be general purpose fiscal assistance, then we believe restrictions on use should be removed. The House bill removed restrictions existing in the present law, but added a prohibition which we believe is completely inconsistent with and potentially damaging to our Federal system, namely section 123(e) prohibition of use for lobbying purposes. What bothers county officials about this section, is that we believe it could be interpreted (given the fungible nature of revenue sharing funds) to mean that no public officials could appear before Congress to give their views on this important program. We ask that this provision be deleted because it could infringe on the rights of State, county and city officials to make their views known.

VI. NONDISCRIMINATION PROVISIONS

County officials believe that the revenue sharing law must insure nondiscriminatory expenditure of funds while providing due process guarantees for all individuals and governments involved. We believe that the purpose of nondiscrimination laws and administrative procedures should be compliance not punishment or disruption of government operations. Counties presently deal with at least 18 civil rights agencies of the Federal Government, each with their own standards to enforce with their own procedures. In order to obtain effective enforcement, we believe that all nondiscrimination laws should be simplified and consolidated, not further confused by attempting to write administrative procedures into law. NACO urges a study be made of all nondiscrimination laws affecting States and localities and that responsibilities for enforcement be given to a single existing Federal agency. This agency's authority should be clearly defined by Congress.

We believe that the provisions in the House bill are so complex that there is a real danger that many recipient governments' funds would be unnecessarily delayed, and that compliance would become an administrative nightmare. (The President of the National Association of County Civil Attorney's Francis Patrick McQuade, County Counsel, Essex County, New Jersey, is here today and would be happy to answer questions about the House language.)

Summary

The Nation's county officials are grateful to you Senator Long for your prompt action in holding hearings on this legislation. We are mindful of the major role you played in enacting the original legislation in 1972, and are certain that you and your Senate colleagues will once again renew this legislation promptly so that vitally needed funds will continue to flow to counties and other governments. This is legislation which affects all of our governments and the citizens they serve. Whether they be residents of the largest urban county or the smallest rural one, each citizen receives a direct benefit from this program whether it be services or stabilization of taxes. There are few, if any, Federal programs that are so universally beneficial.

We thank the Senate Finance Committee for this opportunity to be heard. We hope that your staff will work with the staff of our National Association of Counties to design language for a bill that will best serve the interest of all our citizens.

ATTACHMENT A

Fiscal year of counties by State

State:	*End of fiscal year for counties*
Alabama	September 30.
Alaska	June 30.
Arizona	June 30.
Arkansas	December 31.
California	June 30.
Colorado	December 31.
Connecticut	Not Applicable.
Delaware	June 30.
District of Columbia	Not Applicable.
Florida	September 30.

ATTACHMENT A

Fiscal year of counties by State—Continued

State:	*End of fiscal year for counties*
Georgia	December 31.
Hawaii	June 30.
Idaho	Second Monday in January.
Illinois	November 30.
Indiana	December 31.
Iowa	December 31.
Kansas	December 31.
Kentucky	June 30.
Maine	December 31.
Maryland	December 31.
Massachusetts	June 30.
Michigan	December 31.
Minnesota	December 31.
Mississippi	December 31.
Missouri	September 30.
Montana	December 31.
Nebraska	June 30.
Nevada	June 30.
New Hampshire	June 30.
New Jersey	December 31.
New Mexico	December 31.
New York	June 30.
North Carolina	December 31.
North Dakota	June 30.
Ohio	June 30.
Oklahoma	December 31.
Oregon	June 30.
Pennsylvania	June 30.
Rhode Island	December 31.
South Carolina	Not Applicable.
South Dakota	June 30.
Tennessee	December 31.
Texas	June 30.
Utah	December 31.
Vermont	December 31.
Virginia	January 31.
Washington	June 30.
West Virginia	December 31.
Wisconsin	June 30.
Wyoming	December 31.
	June 30.

ATTACHMENT B

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX,
Fairfax, Va., July 22, 1976.

MS. CAROL BERENSON,
Research Associate, National Association of Counties,
Washington, D.C.

DEAR MS. BERENSON: Fairfax County has reviewed the new provisions with respect to public hearings as contained in the proposed Federal Revenue Sharing legislation, H.R. 13367. We find it would be difficult at best to comply with the requirements as they are currently stated.

As you know, H.R. 13367 will require two public hearings, the first hearing at least seven days prior to sending the Planned Use Report to Treasury, and the second hearing at least seven days prior to adoption of the County's budget. Assuming that the first Planned Use Report will be for the second entitlement period covering the Federal Government's fiscal year, October 1, 1977 to September 30, 1978, and based upon information from the Office of Revenue Sharing that the Planned Use Report will be mailed in late July each year to be returned to Treasury by September 30, Fairfax County has the following difficulties with each of the public hearings required:

(1) The following schedule would be necessary for the first hearing: Entitlement period, October 1, 1977–September 30, 1978; receive planned use report from O.R.S., July 31, 1977; public hearing, September 23, 1977; planned use report to Treasury, September 30, 1977; and second public hearing prior to adoption of budget.

Since Fairfax County's fiscal year begins on July 1, the County's budget for FY 1978 will already have been adopted; however, the first hearing could be included in the public hearings held in April 1977, based on estimated entitlements of Federal Revenue Sharing Funds.

(2) Fairfax County could not comply with the requirement of a second public hearing which must be held subsequent to publication of the Planned Use Report but at least seven days before adoption of the Fairfax County budget. Our budget for the fiscal year July 1, 1977 to June 30, 1978 is scheduled for adoption by the Board of Supervisors on May 9, 1977, which is several months before receipt of the Planned Use Report.

It appears that the only way Fairfax County could comply with the second hearing would be to have the hearing during the FY 1979 budget hearings in April of 1978. This, of course, is seven months into the entitlement period and we assume that Fairfax County would not be able to expend any of these funds until the hearings are completed, the budget is adopted, and the new fiscal year starts nine months later.

The issue insofar as the public hearings et al. are concerned is, it seems to me, a guarantee of meaningful citizen participation. If the receiving jurisdictions can demonstrate compliance with the minimum standards finally decided upon for advertising planned and actual use of revenue sharing dollars through guarantees applicable to their individual budget process, then far more meaningful citizen participation would be accomplished.

Very truly yours,

JAMES P. MCDONALD,
Director, Department of Budget and Financial Management.

ATTACHMENT C

JULY, 30, 1976.

To: Aliceann Fritschler, National Association of Counties.
From: Gerald Weiszhaar, Principal Management Analyst Philip Peterson, Budget Director.
Subject: Revenue Sharing—H.R. 13367.

Pursuant to your request, this memorandum addresses the impact on Hennepin County government of the budgetary and auditing aspects of H.R. 13367, the House passed Federal Revenue Sharing bill.

In general, H.R. 13367 does not seem to present a consistent view of the fungibility of revenue sharing funds. As such, H.R. 13367 contains within it inconsistencies of language, confusing provisions regarding budgeting and auditing and certain provisions which serve little useful purpose. This memorandum will address in the main Section 8 (budgeting; citizen participation) and Section 10 (auditing and accounting). In addition, however, certain other miscellaneous provisions will also be discussed. The general problem noted above will become apparent in the discussion below. Suggestions for amendments will be presented where it seems appropriate so as to reduce the inconsistencies in the bill.

A. BUDGETING AND CITIZEN PARTICIPATION, SECTION 8

This section of the bill seems to be intended to increase citizen participation in state and local decision making. It is questionable whether the procedures detailed in Section 8 accomplish this purpose in the most effective manner possible.

The bill appears to call for two reports to be filed with the Secretary of the Treasury (proposed use report and actual use report), two public hearings (one 7 days before proposed use report is to be filed and one 7 days before budget adoption), and two publications (one 30 days before public hearing and one 30 days after budget is adopted). Actually, there are three publications being required since the proposed use report public hearing could not be held without public notice. Each of these requirements are discussed in detail below.

(1) *Reports to be Filed.* The bill calls for a proposed use report to be filed with the Secretary of the Treasury, (who will send a copy to the Governor of the State), and the Areawide Planning Organization in the area. The proposed use reports must contain a comparison of the proposed, current, and past use of revenue sharing funds with the relevant functional items in the official budget. In addition, the report must "specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction."

The purpose of the proposed use report is not perfectly clear. There is no particular reason why the Secretary of the Treasury needs to know ahead of time what the usage of revenue sharing is going to be. If the Treasury Secretary needs an assurance form regarding civil rights and Davis-Bacon, etc., then such a form could be required, but is meaningless to require a proposed use report to be sent to the Treasury Secretary. It is *not* meaningless to inform citizens regarding revenue sharing and its relation to the budget; however, as will be discussed in B below, this may more readily be accomplished in the ordinary budget process of the governmental unit.

If proposed use reports are to be required, the language regarding comparison with functional items in the budget needs to be clarified as does the language regarding proposed impact. At the time the proposed use report is required, the governmental unit may not know the precise impact revenue sharing will have on the property tax. In any event, the categories (new activities, expansion or continuation, tax stabilization, tax reduction) are not mutually exclusive: taxes can be reduced *and* new activities undertaken with revenue sharing for example. It is unclear what the purpose of these specifications is really for and, in fact, are really quite meaningless outside of the overall budgetary framework which may be on a different time sequence than the entitlement period sequence of the proposed use report. If money is fungible—which it is by definition—then only within the context of the entire budget does a revenue sharing proposed use report make any sense, as will be discussed below in greater detail.

Obviously, the Secretary of the Treasury and Congress have some need to know how, in general, revenue sharing funds are being used by state and local units of government. An actual use report for each entitlement period is a useful device for gathering such information. If the proposed use report can be eliminated, then no comparison between the actual and proposed use reports need be done. It is unclear why such information is of any use to the Secretary of the Treasury in any event (but may be of use to citizens as will be discussed in B below). If, on the other hand, a proposed use report is to be required and "all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary" of the Treasury must be explained, certain problems could easily develop unless a very simple numerical comparison is made without trying to indicate "why" a change was made. There is no easy way to describe some political "horse trading" and it is probably irrelevant to the Secretary of the Treasury and to Congress in any event.

In short, it is our feeling that the proposed use report, as such, can easily be eliminated and the actual use report can be simplified so as to give the Secretary of the Treasury the information needed by Congress without burdening state and local units of government with supplying redundant and relatively useless information.

(2) *Public Hearings.* Holding public hearings to solicit citizen input regarding important issues is not uncommon to state and local governments. The requirement to hold such hearings as a requirement for revenue sharing funds is, therefore, not an onerous one per se. However, holding one public hearing on revenue sharing and a second public hearing on revenue sharing's relation to the budget seems both redundant and potentially confusing. It could be that only one public hearing could more effectively deal with the issues. Or, if two public hearings are desired, it would seem that only hearings where revenue sharing is discussed in conjunciton with the budget itself have any real meaning. As noted in (1) above, we do not feel a public hearing on the proposed use report as such will serve any useful purpose. Public hearings as a part of the budget process in Hennepin County and throughout Minnesota are a fairly standard practice. The precise requirements for the pre-budget public hearing as detailed in the bill might cause some logistics problems for Hennepin County.

In a typical year, the County's calendar year budget is submitted to the County Board by the County Administrator on about September 15th. The Board usually

acts on the budget around November 15th. From September 15th to October 30th, the County Board's Ways and Means Committee holds public hearings on the budget.

Since the bill requires public notice 30 days prior to the required revenue sharing public hearing, the earliest possible time such a hearing could be held is October 15th. Such a date would not cause a disruption in the County's budget process, but from a citizen participation perspective, it might be better for revenue sharing matters to be brought before the Board early in their deliberations rather than after two-thirds of the budget hearings have already taken place. A more flexible publication/hearing schedule would allow for greater citizen participation regarding revenue sharing in Hennepin County. A one or two week notification should be sufficient instead of the 30 day notice, it seems to us.

With respect to the pre-budget public hearing, there are a number of minor items which should be clarified or changed:

(*a*) It is doubtful that the entitlement period beginning January 1, 1977 could have the same procedures as subsequent entitlement periods without causing considerable delays in our budget process. It would appear that the revenue sharing bill probably will not be passed until late August. Hennepin County will be lucky to even know the amount of its entitlement before 9–15–76, let alone have in hand ORS regulations regarding publications, etc. by the time the budget is submitted to the County Board for calender year 1977. Having the law apply to subsequent entitlement periods would seem to make more sense.

(*b*) The bill would require the public hearing to be held by "the body responsible for enacting the budget." Could this be the County's Ways and Means Committee, or would the County Board as such have to hold the hearing?

(*c*) The bill required the hearing to be "at a place and time that permits and encourages public attendance and participation." Would hearings held during the normal workday qualify or would the hearing have to be held at night to qualify under this provision?

(3) *Publications.* The bill that passed the House has within it a requirement for two very lengthy publications. In addition, there is the implied third publication of the public hearing notice for the hearing on the proposed use report. In our estimation, the cost of these publications far exceeds the real benefit to the citizenry.

The bill requires that 30 days before the pre-budget public hearing, the governmental unit must "publish conspicuously, in at least one newspaper of general circulation, the proposed use report . . . , a narrative summary setting forth in simple language an explanation of its proposed budget, and a notice of the time and place of such public hearing;"

As noted in (1) above, we do not see the need for a proposed use report as such. However, some of the information which the bill specifies would be included in the proposed use report would be useful for citizens so long as it is presented in the context of the entire budget of the governmental unit. It makes sense, therefore, for some kind of proposed use of revenue sharing funds to be developed and published prior to the pre-budget public hearing required by the bill. In addition, of course, publication of the time and place of the public hearing is necessary. The requirement that there also must be published a narrative summary in simple language of the proposed budget and that said publication must be published "conspicuously" in a general circulation newspaper is where we have some problems.

For Hennepin County to describe its proposed budget in simple narrative is no easy task. There are over 200 low level program budgets and a much larger number of activities performed within these programs. The County Administrator's budget message attempts a narrative summary of the budget, but even in 14 single spaced pages cannot cover in detail most programs and activities. Even at that, the budget message is addressed to the Board of County Commissioners who are quite familiar with the programs and categories being described. To present the Hennepin County budget in "simple language" so that the uninitiated can understand it would take considerable additional verbage. If it is intended that the budget message be published, this could become expensive. To publish much less will not give a reasonable narrative of the budget. It seems to us that the simple narrative summary could be made available to those desir-

ing a copy and to those attending the pre-budget public hearing without requiring a publication thereof. The same purpose would be served, but the publication cost would be considerably reduced.

The bill also requires a "conspicuous" publication, 30 days after the adoption of the budget, of "a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of "revenue sharing funds to the relevant functional items in the budget." Requiring a publication of the narrative summary once again seems somewhat redundant. The real problem, however, concerns the "explanation of changes from the proposed budget." If "explanation" merely means describing the amounts deducted or added by program, that is one thing; if, however, "explanation" means some rationale must be provided, that becomes somewhat more difficult, given the political nature of some funding decisions. For the 1976 budget there were about 30 separate changes from the proposed budget (and 1976 was a year of relatively few changes). An "explanation" of each change would be both difficult to provide and add additional publication costs. Would it not be simpler to require that the governmental unit mail copies of its adopted budget in summary form to those citizens who attend the pre-budget public hearing or who request it and to forgo another costly publication?

In addition to requiring the two publications discussed above, the bill also requires that the governmental unit "make available for inspection and reproduction by the public" the proposed budget, the narrative summaries (before and after adoption) at all public libraries within the governmental unit in addition to the principal office of the governmental unit. Inspection of these documents is no problem—even though with 42 libraries in Hennepin County this could be somewhat costly—but "reproduction by the public" is quite troubling. Does "public" mean "at public (e.g. governmental) expense" or does it mean at the expense of the general public (e.g. individual citizens)?

The proposed County budget document is over 300 pages in length and would cost about $10.00 per copy for 300 copies. Even if we only are required to place a copy in each library in the County, this would mean 42 extra copies. Normally the County *does* provide copies of the *adopted* budget to libraries but not the proposed budget as such since it is not of but temporary significance. The County has not experienced many public requests for our detailed budget book. Most of the 300 copies thereof are used by County departments. We do, however, publish a budget summary document for broader dissemination and normally publish 2,000 copies of this document.

In order to fulfill the publication requirements of the revenue sharing bill, it would probably cost a minimum of perhaps $3,000 and a maximum of about $10,000 in additional expenses depending on how lengthy a narrative summary is required and how many free copies of our proposed and adopted budgets are required to be disseminated. This compares to a current federal revenue sharing publication expense of about $250.00 for planned and actual use reports. In our judgment such additional expense is not really justified, since the same purpose can be achieved without publication costs significantly above current publication expenditure levels if the proper rewording of the bill were done without sacrificing citizen participation opportunities.

B. ACCOUNTING AND AUDITING

The House passed revenue sharing bill makes it a condition of continued receipt revenue sharing funds that each governmental unit "conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards." We in Hennepin County would have no problem with such a requirement and consider such a practice to be consistent with sound financial practices to have such an annual audit. However, it does seem a bit anomalous that the Federal government would impose such a condition when its financial accounts are not audited each year in their totality. In any event, the requirement would impose a significant additional cost burden on most state and local governments. It is our understanding that *no* state government, including the State of Minnesota, has an anunal audit performed on *all* of its financial accounts. Perhaps one-third of the states have *no* auditing practice for even part of their accounts. For local governments there is considerable diversity with respect to auditing practices, but for most local governments in Minnesota, a requirement

such as that contemplated by the House passed revenue sharing bill, of annual independent audits would necessitate a radical change in current practices and we thought you might be interested in that fact.

There are basically three different systems for auditing of Minnesota local governments: (a) State Auditor performed audits of counties and certain cities; (b) Independent auditors hired by the local government; (c) No annual audit performed. By far, the largest group of local governments fall in the third category where no independent audit is performed on a regular annual basis. Hennepin County hires an independent certified accounting firm to perform an audit each year of all of its accounts. The County also has its own Internal Audit staff and is subject to audit by the State Auditor. Many other units of government, including the other counties in Minnesota, rely in large measure on the State Auditor. Unfortunately, such audits would probably *not* meet the test of the bill because such audits are *not* done annually and in many instances are not comprehensive. We feel that no other county except Hennepin in Minnesota would qualify under the bill if annual, comprehensive and independent audits are to be required. Very few other local units in Minnesota would, in our estimation, actually qualify under the bill. If the Congress is aware of that fact and still wishes to impose the requirement, Hennepin County has no objections. Please be advised, however, that the costs imposed on state and local governments by such a requirement will be significant. The annual independent audit of Hennepin County costs about $80,000 per year. To this must be added the costs of the State Auditor and our own Internal Auditor. Such costs are incurred by Hennepin County because we feel it is a good financial management practice. A requirement in the revenue sharing bill for annual audits would impose analogous costs on all state and local governments in the United States and perhaps Congress might reconsider whether they really want to do that.

Nor is the cost of an annual audit the only cost being imposed on many state and local governments. In order to attempt an audit, the governmental units would in many instances have to put their accounting records in shape to be auditable. Most states and many local governments operate on more than one accounting system and are, for this and other reasons, simply inauditable. Putting accounting systems in shape would also be a significant additional cost which the revenue sharing bill is in effect imposing by its financial requirements. In Hennepin County we consider this to be a sound financial practice and have developed such a unified accounting system. But numerous other governments do not have such a unified accounting system and would have to develop one to effectively comply with the revenue sharing bill's requirements.

C. OTHER PROVISIONS

In both the budgeting and auditing requirements the revenue sharing bill seems to be largely consistent in recognizing the fungible nature of money. A dollar of revenue sharing is budgeted like any other dollar by the unit of government and as such a view of the entire budget is necessary for real understanding of the financial impact of revenue sharing. Likewise, a dollar of revenue sharing is spent like any other dollar by the governmental unit and as such a financial reporting of the entire government's expenditures makes sense. However, in two other sections of the bill, the fungible nature of revenue sharing funds is ignored.

In Section 9 of the bill, a unit of government can show that a program or activity is not funded "in whole or in part, directly or indirectly, with . . . (revenue sharing) . . . funds." Given the fungible nature of money, it is hard to see how any program or activity of the unit of government can be proven to not be funded indirectly by revenue sharing funds. The proof must be by "clear and convincing evidence," but still the assumption is that it is possible to separate revenue sharing funds in a definitive manner. Perhaps its does not harm to have such language in the bill, but it is seemingly inconsistent with the posture that revenue sharing funds are indeed fungible.

Section 11 of the bill is also inconsistent with the fungible view. It would be largely impossible to prove that revenue sharing funds has not been used at least indirectly for lobbying purposes, if indeed money is fungible. It would seem that this section should be struck in its entirety or no unit of government will be able to do any lobbying (except by paying *dues* to a national or state organization) regarding revenue sharing in the future.

Hopefully this memorandum will give you an insight into how Hennepin County views the financial aspects of the House passed revenue sharing bill. If you have any questions on these matters, please do not hesitate to contact us.

Senator BYRD. We will deviate just slightly from the printed agenda, and I will call now on the Honorable Robert C. Fitzgerald, counsel for the four Virginia counties.

He will be accompanied by the Honorable Joseph L. Fisher, U.S. Representative from the State of Virginia, and the Honorable Jack Herrity, chairman of the Fairfax County Board of Supervisors.

The Chair is pleased to have before the committee today Congressman Fisher from the 10th Congressional District who represents Fairfax County and Loudoun County in Virginia and the Honorable Jack Herrity, the chairman of the Board of Supervisors of Fairfax County, the largest political subdivision in the State of Virginia, with a population larger than some States: 550,000 persons, and the State senator, my longtime colleague from the Virginia Senate, Senator Fitzgerald.

We are pleased to welcome all of you this morning.

Senator Fitzgerald, I assume that you will be—from the agenda here, it appears that you will be the leadoff spokesman.

STATEMENT OF ROBERT C. FITZGERALD, FITZGERALD AND SMITH, COUNSEL FOR THE COUNTIES OF CHESTERFIELD, DINWIDDIE, FAIRFAX, AND MADISON OF THE COMMONWEALTH OF VIRGINIA

Mr. FITZGERALD. Senator Byrd and gentlemen of the committee, I am here on behalf of four counties of Virginia. After listening to the broad spectrum of the problems and burdens that confront this committee, I hope that the committee will not feel that the problems that face these four counties are unique to these counties, and will treat them as minuscule, because these problems could beset other local jurisdictions, and in perspective and relationship to the size of the localities, the moneys involved are, of course, extremely critical and important to these localities.

As we can all envision, at the outset of the program of Federal revenue sharing, there were many problems in determining some of the factors that went into the formula to determine the amount of money to be distributed to the localities.

One of the ingredients to be used as a measure was adjusted taxes to measure the local tax effort. It was not long into that program that it was discovered that in Virginia, simply because of the method of bookkeeping of some of the local governments of Virginia, some of the counties, the amount of adjusted taxes that were attributed to those localities was about half of what it should be. A number of conferences were had with the Office of Revenue Sharing and the Bureau of Census in trying to come to some agreement and some adjustment to correct this situation.

This did not result in any success, so that a number of these counties filed suit to have corrected the method by which these adjusted taxes were determined.

None of the counties could know at that time what effect it would have on their entitlements.

This same procedure carried through for the first five entitlement periods, when, just before the cases came to court, the Office of Revenue Sharing agreed that its method of determining adjusted taxes in the

Commonwealth of Virginia could be done in another way, a better way, to take into account the method of bookkeeping for certain localities of the Commonwealth of Virginia.

So that they agreed, and did redo the adjusted taxes for the entire State of Virginia, after five periods that had already been finalized and the governments had come in and spent this money.

Now, after having redone the entire State, it turned out that a number of localities in Virginia would have gotten less money, or would get less money under the new determination than they had before. Some 68 counties should have gotten more money.

The decision of ORS at that time was that they would pay those counties the additional funds that they should have gotten that were in court, in litigation, and who had filed formal protest, and they finally did pay the differences in the money. That left over 200 jurisdictions in the Commonwealth of Virginia that, according to that criteria would have gotten less money.

It was not until some 6 months after that litigation was all over that the Office of Revenue Sharing notified these four counties that they would be required to return moneys, refund moneys, all the way back from the first period to the fifth period, that according to the second method of determining adjusted taxes, they were overpaid.

They did not require, and do not require, some 200 jurisdictions of Virginia that under the same second method would have made less money. They do not require them to return the money.

In all fairness to Ms. Tulley and the Office of Revenue Sharing, they believe that under the wording of the act—I do not agree with them—they believe that under the wording of the act that they are required to compel Fairfax County, Madison County, Dinwiddie County, and Chesterfield County, all the jurisdictions in Virginia, to return this money.

The fact remains that the money has already been spent; or committed, that deals with the first five periods. Now we are going into the final period, the seventh period of this act.

The money has already been spent, budgeted, and accounted for. It is the position of these counties that they should not be penalized simply because of one factor. They, along with the other counties of Virginia, 20-some counties, engaged in litigation against the Office of Revenue Sharing to correct this matter, to determine the adjusted taxes.

They are the only counties that are being so treated. It is our request that these counties and any other local jurisdictions in the country that have received funds, that have been told that they are final, that they have spent the money or allocated the money for projects under the original Revenue Sharing Act, that have been approved, and there is no question that this money is being spent for inappropriate purposes, no question about it, any civil rights being involved.

The question is simply—the question originally was simply the bookkeeping processes of certain jurisdictions, that these local jurisdictions, these four should not be required, and that an amendment should be put into this act to make it clear to the Director of the Office of Revenue Sharing that that Office does not have to require those counties, after all of that time, to come back down and find some means of pay-

ing back, in the case of Fairfax County, almost $3 million; Chesterfield County almost a half a million dollars of funds already expended and approved.

I thank you.

Senator BYRD. Thank you, Senator Fitzgerald.

[The prepared statement of Mr. Fitzgerald follows:]

STATEMENT OF ROBERT C. FITZGERALD, FITZGERALD AND SMITH, COUNSEL FOR THE COUNTIES OF CHESTERFIELD, DINWIDDIE, FAIRFAX, AND MADISON OF THE COMMONWEALTH OF VIRGINIA

SUMMARY

1. The Counties of Chesterfield, Dinwiddie, Fairfax and Madison in Virginia have been notified that alleged over-payments in entitlements of periods 1 through 5 will be deducted from the next or future entitlements under the extension of the Federal Revenue Sharing Program.

2. The amounts claimed are as follows:

Chesterfield	$433,908
Dinwiddie	95,846
Fairfax	2,799,248
Madison	9,477

3. These counties received these monies under a final determination made by O.R.S. and the funds have all been expended on approved programs.

4. Because of litigation, O.R.S. agreed to use a "second method" of determining "adjusted taxes" for Virginia localities which would better take into account differences in bookkeeping.

5. Use of the data determined by the "second method" shows that 21 cities, many towns and 26 counties would have gotten less entitlement than determined by the first method, while 68 counties would have received more.

6. Of the many jurisdictions that would have received less under the second method, only Chesterfield, Dinwiddie, Fairfax and Madison counties have been notified that the alleged over-payments will be deducted from the 7th or future entitlement periods.

7. The only justification given for such treatment of these four counties is that they participated for a time with 22 other counties in litigation concerning the methods used by the Bureau of the Census and Office of Revenue Sharing in determining "adjusted taxes" under the Revenue Sharing Act.

8. The four counties were granted permission by the Federal Court to drop their suits by non-suit taken in February, 1976.

9. Provision is needed in the present Bill before this Committee extending the Revenue Sharing Program to prevent such inequitable and discriminatory action from being taken against these counties.

STATEMENT

Mr. Chairman and Members of the Committee; The purpose of my appearance before this Committee is to seek a correction, or prevention of an extreme inequity that has resulted from the administration of the initial Federal Revenue Sharing Act and, especially, the first five entitlement periods.

When the first three entitlement periods were being finalized by the Office of Revenue Sharing, Mr. Daniel A. Robinson, a C.P.A. of Charlottesville, Virginia, a financial consultant and auditor of the accounts of many local jurisdictions of Virginia, discovered an inconsistency and inequity in the determination of "adjusted taxes", used in the formula to determine the amount of entitlement. This resulted in a number of Virginia counties being credited for only about half of the amonut of adjusted taxes that would have been the case if a different form of bookkeeping had been used, or if the O.R.S. and the Bureau of the Census used the audit reports of these counties to take into account the differences in bookkeeping.

Many of these Counties consulted Legal Counsel, including my firm, requesting that steps be taken to correct this situation. After a number of conferences and challenges failed to produce any change in the methodology used by the Bureau of the Census and O.R.S. and all administrative remedies were exhausted, about

25 counties of Virginia filed suit in the Federal District Courts to compel the Federal Officials involved to, in effect, stop penalizing these counties for their system of bookkeeping.

Prior to filing suit every effort was made to have the Federal agencies use corrected data to let the counties know what, if any, differences such would make in the amount of the entitlements. These agencies were the only entities that had all of the data and capability to make such determination. This request was refused as being too costly.

Before the litigation could be tried, the 4th and 5th periods passed with still no change in the methods used by O.R.S. and the Bureau of the Census. These two periods were added to the litigation.

Finally, in August, 1975, shortly before the scheduled trial of all of the cases, O.R.S. agreed that there was a "better way" to determine adjusted taxes for the local jurisdictions of Virginia taking into account differences in bookkeeping systems which would produce a more consistent and equitable determination of "adjusted taxes", and this was done for the entire state for all five periods.

By November, 1975, this was done, and the amount of entitlements resulting was provided December 10th, 1975. When this report was released; it showed that 68 counties of Virginia should have gotten $16,948,335.00 more for the five periods and 21 cities, many towns and 26 counties would have gotten less.

O.R.S. then agreed to pay those counties which had filed "timely protests" and had suits pending the additional amounts, and that jurisdictions that under the new computation would have recovered less would not be required to refund any amount.

Among the counties that had originally joined in filing suit against the Office of Revenue Sharing and the Bureau of the Census were Chesterfield, Dinwiddie, Fairfax and Madison. Although all of these counties' adjusted taxes were increased, because resulting entitlements were dependent on their relative position with all other jurisdictions of the State, the new method would have caused these four counties to receive less funds for the total of the five periods. As soon as this was known, these four counties requested the Federal Court to non-suit or drop their suits and be left in the same position as all other jurisdictions in the State that had not participated in the suits. Over the objections of Counsel for the O.R.S. and Department of Justice the requests of these counties were allowed in February of 1976.

Some six months later on July 13, 1976, these four counties were notified by the Director of O.R.S. that the use of the new data showed that these four counties were over-paid in the first five periods as follows:

Chesterfield	$433,908
Dinwiddie	95,846
Fairfax	2,799,248
Madison	9,477

The Director further announced her intention of deducting these amounts from the next or future entitlements of these counties. This position was taken although O.R.S. admits that not a single one of the cities, towns, or other counties, which, according to the new data were over-paid for these five periods, were being required to make any refund by any means.

A conference of officials of the Department of the Treasury and Office of Revenue Sharing with representatives of these counties resulted in an agreement that General Counsel would meet with legal representatives of these counties to discuss the legalities of the matter. While there is the possibility that Counsel for the Department of the Treasury and O.R.S. may cause the Director of the Office of Revenue Sharing to reverse this decision, it is all too likely that this will result in more litigation—all to the further expense of Federal and local taxpayers.

The reasoning behind the decision of O.R.S.'s requiring a refund from the four counties and no other localities similarly situated is because the four counties at one time were among those who had filed suit and, for such, O.R.S. says it is required to take such action.

While we are of the opinion that the matter can be ultimately resolved through the Courts to the favor of the four counties, we believe the discriminatory action can be prevented more expeditiously with no further expenditure of tax funds by including a provision in the Act now before this Committee that would remove any doubt that such action should not be taken.

These counties, along with all other local jurisdictions of Virginia, have long since expended and committed the funds involved on projects and programs approved under the Act. Moreover, budgets have been adjusted and commitments made in reliance on the receipt of the full amount of entitlement for period 7 as reported by O.R.S. It is absolutely essential that the possibility of having these sums deducted from future entitlements or refunded in any way at this late date be terminated as soon as possible.

Your time and consideration is sincerely appreciated.

Senator BYRD. Congressman Fisher?

STATEMENT OF HON. JOSEPH L. FISHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Representative FISHER. Thank you very much, Senator.

I appreciate this opportunity to be here with my colleagues from Fairfax County to testify about the general revenue sharing program, and this particular aspect of it is really of great importance to Fairfax County and several other Virginia counties.

Let me say at the outset that I was pleased to support the bill, of the general revenue sharing program when it came before the House several months ago. I do endorse the principle to give general grants of funds to State and local governments to use at their discretion, to help meet some of their priority needs.

I saw firsthand, when I was a member of the local county board, the tendency for categorical Federal grants to warp the budgets of their sense of priority of local people.

Of course, the great virtue of general revenue sharing is that local officials, particularly after public hearings, can spend the money according to their own judgment of what is needed, what is important.

The general revenue sharing funds should not be thought of as over and above, and in addition to, what had been the categorical grants in the absence of revenue sharing. That is an important point, and I know that it is one that you have made, Senator Byrd.

An unusual problem has arisen in connection with the administration of the program and it threatens to have a most serious effect on Fairfax and these several other counties in Virginia. The two gentlemen here with me will be giving you some of the background and details of this problem.

The sum of it is that the Office of Revenue Sharing is trying to get back nearly $2.8 million from Fairfax County which I represent, because of a redefinition and a recalculation of factors in the distribution formula for revenue sharing.

Funds that Fairfax County has received during the past several years in good faith, spent properly, or committed to spend properly.

My purpose here this morning is to urge you to take whatever steps are necessary to make it clear that such efforts by the Office of Revenue Sharing are contrary to the intent of Congress at the time that the legislation was passed several years ago.

Section 102 of the State and Local Fiscal Assistance Act of 1972 states that the Secretary of the Treasury could make adjustments in the payments to State and local governments to correct errors. The intention of this provision is given in the general explanation of the act which has been published and prepared by the staff of the Joint Committee on Internal Revenue Taxation.

The explanation says that adjustments may be made to the extent that they are due to clerical or computational errors.

It seems to me to be quite clear that the adjustment provision was meant to apply to over- and under-payment of revenue sharing funds because of errors in estimates or in the arithmetic only, and not because the formula or the ingredients of the formula or the weighting of the formula or the way in which school taxes were taken into account enter into the matter.

I think that, judged upon that basis, which is, I believe the intent of the act, Fairfax County should not be required to refund this rather large sum of money.

Prospectively looking ahead, changes in the formula, of course, may have to be allowed, but this should not be applied retroactively to funds received over a period of years and already spent.

So therefore, Mr. Chairman, I hope that very much that this committee will clarify the intent of the original act through such means as you would think appropriate.

This would be fair to the counties that are involved here and to any other counties in the country that may be involved, and would straighten this matter out very quickly, as should be done.

Senator BYRD. Thank you, Congressman Fisher.

The Chair recognizes the chairman of the board of the Fairfax County Board of Supervisors.

STATEMENT OF JACK HERRITY, CHAIRMAN, FAIRFAX COUNTY BOARD OF SUPERVISORS

Mr. HERRITY. Thank you very much, Senator Byrd. We appreciate very much the opportunity to appear before the committee and your activities in this matter that are very important for the citizens of Fairfax County.

As you indicated, we are the largest county in the Commonwealth of Virginia.

Mr. Fitzgerald and Congressman Fisher have broadly outlined our problems. I would like to see if I could get into some more specifics as to the impact of this $2.8-plus million on the citizens of Fairfax County, the circumstances involved.

I disagree with the Office of Revenue Sharing. We believe that the Office of Revenue Sharing's position is unsupportable, and contrary to the intent of the Revenue Sharing Act.

Regardless of the legal opinion, or any issue of fault, is the impact of that proposed action that ORS will have on the operation of the local government involved.

The simple fact of the matter is, that, the funds in question have been committed and expended for programs and projects undertaken by the locality.

As you are aware, all local government has been operating under fiscal restraints in the last several years of economic instability. We, in Fairfax County, are just beginning to work our way out of many of these difficulties, and the additional imposition of the ORS sanctions would have drastic impacts on our budget.

In Fairfax County, at the time our fiscal 1977 advertised fiscal

plan was published there was an estimated deficit of $38.4 million that we planned to balance by an advertised property tax increase of $1.03 per $100 assessed value.

In order to avoid imposition of such a burden on our residents, the board of supervisors eliminated nearly 200 county positions and severely constrained program expansion so that the budget was reduced by a 50-cent increase in the real estate tax and the personal property tax—$4.80 per $100 assessed value of personal property and $4.35 per $100 real estate tax.

The impact of the reductions would postpone the opening of the urgently needed fire station for 6 months, eliminated our entire clinic program, and resulted in 65 positions requested by the police department not being funded.

In addition, the approved fiscal plans, pay-as-you-go construction projects were normally funded from our general fund in revenue sharing dollars. Current projections for fiscal 1978, 1979, and 1980, indicate that the overall condition of the county may be moderately improved. These projections are based, however, on the assumption that the current economic recovery will continue so that inflation is not a recurring problem.

We are basing our projections on an estimated inflationary rate of over 6 percent. Therefore, if we are to fund any more pay-as-you-go capital expenditures out of current resources, general funds, or revenue sharing, the availability of expected revenue sharing dollars is significant.

If the county is required to refund revenue sharing dollars or has its expected entitlement reduced, it is evident that programs and projects normally funded pursuant to this mechanism will have to be more severely curtailed.

The only alternative for us is to increase taxes in order to fund urgently needed programs and projects, to require Fairfax County residents to shoulder the burden of increased taxes or decreased services for an error in computing a tax, whose accuracy is still in dispute, while residents in other localities who have received overpayments are not being asked to bear an equivalent burden. It is not only unjust, but contrary to the principles of cooperative Federal, State, and local fiscal management which is the primary objective of the Federal Revenue Sharing Act.

We strongly recommend that this committee take appropriate legislative action that revenue sharing will be approved.

Thank you for your attention.

Senator BYRD. Thank you, Mr. Herrity.

In recapping the problem, the situation is this, is it not?

The Federal Government refined the formula under which revenue was shared with the localities of the State, and as a result in that change of formula, some counties received or will receive less funds than funds received under previous years.

As a result of that, the Federal Government now is going back to four different counties and seeking to have those counties refund money which already has been received by the counties and for the most part, already paid out by the counties.

Now, those funds were received from the Federal Government in good faith. Those funds were budgeted in good faith, and for the most part have been spent in good faith.

I say for the most part, because in regard to the current year, I assume that there are some funds that have not been yet spent. Is that statement correct?

Mr. FITZGERALD. They have not been spent, but they have been budgeted. They are a part of the balanced budget.

Senator BYRD. A part of the budget for this current year?

Mr. FITZGERALD. They have been told—the units of government have been told by the publications what amount of money to expect for the seventh entitlement period, and they have included that in their budgets.

Senator BYRD. For the previous budgets, which would go back 4 years, would it not?

Mr. FITZGERALD. The full extent of the revenue sharing program.

Senator BYRD. That money has already been spent?

Mr. FITZGERALD. Oh, yes.

Senator BYRD. It was received by the localities in good faith, and spent in good faith?

Mr. FITZGERALD. When you say they changed the formula, that is not quite correct. They changed what they call the methodology of utilizing the formula. Because of the difference in bookkeeping systems among the localities in Virginia, what it resulted in was two sets of adjusted taxes for all localities in Virginia.

Now, some have been paid under the initial method and some through litigation have been paid under the new method.

Here are these three counties, that are also saying we are going to require you to be paid under the second method rather than the first method because you joined in the suit that caused us to have two methods.

That is about the size of it, and these four counties elected, when they saw what the situation was, and they could not know until after the computer had been run that they were better off under the first method.

They nonsuited their suits and were let by the Federal judge out of the litigation. Some 6 months later, ORS saying they are compelled to do it, said you are going to have to be treated under the second method rather than the first method.

All they are asking is that they be treated the same as all of these other localities, some 200 localities in Virginia that are being treated under the first method.

Senator BYRD. Some of the localities thought that they were being disadvantaged under the original methodology?

Mr. FITZGERALD. As far as the adjusted taxes are concerned, they were, but when it was redetermined, and all through this computer, and no one could do it but the Federal Government because of the relative position among localities—it is just one pie that is being cut up, because of the relevant position. Even though their adjusted taxes went up, as we claimed it would, their amount of entitlement came down because other localities were worse, or had more extreme, or were more extremely affected by the first method.

Senator BYRD. Will the received methodology in the new formula apply to those counties in the future?

Mr. FITZGERALD. It will apply to all of the counties in the future.

Senator BYRD. There is no dispute over that. There is no problem there. The problem is whether or not the Federal Government should seek to have repayment made for money that has been disbursed in the past.

Mr. FITZGERALD. The first five periods, yes.

Mr. HERRITY. It is like if you are at the half-time of the football game and the home team changes the rules at half-time to affect the football game in the first two quarters. I think that is about the best analogy that I can think of with respect to the problem we have here before the Senate today.

We certainly appreciate your attention to that problem.

Senator BYRD. I am very much interested in the problem, and I want to help in any way that I can. I have communicated with each of my colleagues on the committee setting forth the problem and also I have been in consultation with the Treasury Department.

Hopefully, something can be worked out, but it is not fair to go back to the localities and say, we have changed the methodology. As a result of that change, we want you to pay back money that you spent 4 years ago, or 3 years ago, or 2 years ago, or 1 year ago, money that has already been spent. We want you to pay that back.

That does not seem to me to be reasonable, fair, or a good public policy. I am glad to help in any way that I can. I do not know what the outcome will be, but we will do the best we can.

Representative FISHER. If I might add, Senator, not only does it not seem fair, but I do not believe that it is consistent with the intent of the Congress in its original enactment of the revenue sharing program. The intent was to make retroactive adjustment for an arithmetic change, something that changed in basic census data, but not a change of the methodology by which the formula was applied.

So that I think that we would be adhering carefully, strictly, to the original intention of the Congress if we corrected the problem that exists here.

Senator BYRD. The way you are expressing is the way the Senator from Virginia sees it, also, and I hope that something can be worked out along that line.

I thank each of you.

The next witness is Mr. Wallace Gustafson, general counsel, National Association of Townships and Township Officials, accompanied by Mr. Kenneth Greider, secretary.

STATEMENT OF WALLACE F. GUSTAFSON, GENERAL COUNSEL, NATIONAL ASSOCIATION OF TOWNSHIPS AND TOWNSHIP OFFICIALS

Mr. GUSTAFSON. Thank you, Mr. Chairman. Of course, the 17,000 townships in this country support the continuation of revenue sharing as we have known it for the last several years. We have filed our statement here. You have a copy for members of the committee.

I would like to take just a few minutes to address myself to three

concerns we have with the House-passed bill. The major concern we have is the torturous language that has been provided for the definition of a local unit of government.

We are quite satisfied, from our study of the bill, that the 17,000 townships will qualify. We submit, Mr. Chairman, to do so, however, is going to require tons and tons of paperwork by the ORS and the 17,000 townships around the country to demonstrate that they, in fact, fit the definition of the act as passed by the House.

No. 2, we are concerned about the reporting and public hearing provisions of the act. We contend that the time provided and the timespan in the bill is out of cycle, out of gear, and does not match the State-mandated hearings that we have in our respective States, for example, in the State of Minnesota, the budget of the whole township is set by the electorate at the annual meeting. The second Tuesday of March in each year, the citizens of that township gather together by State law and the budget is established by the people at the meeting, not by the elected people, so that we contend that the reporting and public hearing procedures in the House-passed bill simply do not coincide with the provisions of the respective State laws.

Third and last, Mr. Chairman, we are concerned about the auditing provision, the independent auditing provision. In the State of Minnesota, I suppose the average revenue-sharing payment is $2,000 per township. We have an independent outside audit every year at a cost of $500 per audit.

We have built into our State laws around the country provisions on the auditing procedure, so we feel that the provision of the act by the House does not serve any purpose.

In summary, Mr. Chairman, the townships take this position: No. 1, that the language defining local unit of government is cumbersome. It is going to require an enormous amount of paperwork, a lot of proof and a lot of documentation.

We are satisfied that we will qualify under the act, but it is going to be a very difficult, time-consuming, laborious process to do.

I should say, Mr. Chairman, of the total revenue-sharing budget, about 5 percent goes to townships and there are 17,000 townships in this country.

Second: The hearing and reporting procedures, we contend, are completely out of step or are out of cycle with our State laws in respective States, and lastly, the auditing, we feel, is too costly a process to impose upon these smaller townships in the United States.

I would like to yield the rest of my time, Mr. Chairman, to my two colleagues here, Bill Sanford, representing the Township Association and the State of New York.

Mr. Sanford?

STATEMENT OF WILLIAM SANFORD, ON BEHALF OF THE NATIONAL ASSOCIATION OF TOWNSHIPS AND TOWNSHIP OFFICIALS

Mr. SANFORD. Just briefly, I have two very serious concerns. There are 8 million people that live in the towns of New York State. There are 930 towns. We are keenly interested to see the program continue for ourselves. We are equally enthusiastic to see it continue for the cities and counties and villages in the State.

In New York State, we have had two cities—maybe a third—that are

in very serious financial difficulties. One city's office is being run by an emergency financial control board who just adopted a budget for the city of Yonkers counting on the $1.7 million that they got last year from this program.

We are all going out and borrowing money. We find going to the marketplace for money is not what it used to be.

In March of 1974, my town sold $2 million at 4.6 percent. Since then, we have had this fiscal crisis situation. We are paying as much as 9, 9½ percent for short-term money, so I think it is important not only that we get on with the program, but that it be resolved so that as apparently many of you people feel today, that a minimum of red-tape be involved in the processing.

Senator HATHAWAY [presiding]. Thank you very much.

Mr. Greider?

STATEMENT OF KENNETH GREIDER, SECRETARY, NATIONAL ASSOCIATION OF TOWNSHIPS AND TOWNSHIP OFFICIALS

Mr. GREIDER. On behalf of the Association of Townships and Township Officials, we are pleased to testify.

Sitting here this morning and listening to the testimony, we did see a lack of concern for our level of government, the town and township. We think it is important that we have the opportunity.

We believe that local officials are accountable to our constituents, as mentioned here before this morning, and should be given the responsibility for the expenditures that they have to spend under revenue-sharing funds.

I have no further statements. If you have any questions, we will try to answer them.

Senator HATHAWAY. I did not hear all of your testimony, but I take it you have some criticism of the House-passed bill?

Mr. GUSTAFSON. Our concern is threefold in this order.

Our No. 1 concern is the definition in the House-passed bill of the local unit of government. We have made an indepth study on behalf of the townships in this country. We think they are going to qualify under the language, but it is going to be a massive undertaking of paperwork between the Office of Revenue Sharing and the 17,000 townships to prove that they perform two or more of these functions. We can do it, but it is going to be an enormous undertaking.

Senator HATHAWAY. You think it should be left the way it is?

Mr. GUSTAFSON. We think so, Mr. Chairman. It has worked for the last several years, and even more important, we are talking about a rather small portion of the Federal revenue-sharing pie.

I remind you again, about 5 percent of the budgets goes to the 70,000 townships to become engaged in this torturous paperwork for 5 percent of the budget is an exercise in futility.

Senator HATHAWAY. The auditing procedures are concerned with that?

Mr. GUSTAFSON. We could live with that sort of thing, but I speak most knowledgeably about Minnesota, where I came from.

The average township in the State has $2,000, $3,000 a year revenue-sharing money. We have a built-in statutory auditing procedure in Minnesota that has worked 110 years in the State. If we are going to have to go out and have this—the language in the House-passed bill

says an independent, outside audit, that is going to cost $500 a year, more or less and think it is unnecessary.

Senator HATHAWAY. You do not have any quarrel with any sunshine provisions or civil rights provisions applying to the whole budget?

Mr. GUSTAFSON. We do not, as far as the townships are concerned.

Senator HATHAWAY. Thank you very much.

[The prepared statement of Mr. Gustafson follows:]

STATEMENT OF NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIP OFFICIALS, WALLACE F. GUSTAFSON, GENERAL COUNSEL

Mr. Chairman and Distinguished Members of this Committee, I am Wallace Gustafson, attorney from Willmar, Minnesota and represent the National Association of Towns and Township Officials. Joining with me in this presentation are members of the Board of Directors of the National Association who also represent the several state associations of townships and township officials from throughout the United States. There are twenty-one states in the United States that afford to their people the benefits of a township form of government, and most of these state associations of township officials are members of the National Association of Towns and Township Officials under whose auspices we appear before you today.

When the State and Local Fiscal Assistance Act of 1972 was enacted establishing general federal revenue sharing, the Congressional mandate was to "help assure the financial soundness of state and local governments which is essential to our federal system." As a further affirmation of Congressional intent, Congress determined that the sound financial condition of local governments in our country was critical to their survival, and hence it provided that two-thirds of the general revenue sharing moneys allocated to each state be provided to local governments and one-third to the state government. To date of the twenty billion dollars of funds disbursed in the form of revenue sharing, approximately one billion or 5% has been allocated to the townships in the United States. The more than three years of participation of 16,467 townships exceeded in number only by the 18,051 cities who have registered a minimum of complaints and unanimously endorse re-enactment beyond 1976 dramatically demonstrates that the program has been a success and ought to be continued.

At the outset, the National Association of Towns and Township Officials and its constituent members believe that revenue sharing embodies those original constitutional principles of government by the people which we will soon celebrate during the Bi-Centennial of our nation's birth. The fundamental premise underlying the American federal system is a concept that government must remain close to the people it serves. Within this system we suggest it is the townships and their elected officials that are most directly in contact with their constituents, and we believe most responsive to the individual communities' real needs. Federal revenue sharing encourages orderly local planning since officials know in advance the funds they will receive; its procedures are elementary and recipient governments need not employ additional expensive staff to cope with federally designed paper work.

Of equal importance is the objective of revenue sharing to provide federal assistance to *all* units of general government in the United States. Most other federal aid programs are targeted at one or another specified level of government and each of the hundreds of categorical aid programs addresses a particular need that may exist in only a few jurisdictions. One of the tragedies of categorical aid programs is the difficulty most local governments encounter in identifying the sources of the grants and preparing and coping with the applications in compliance with the diversity of federal regulations and procedures that apply to all of these programs. The result has been that too often only the more affluent, sophisticated and well-staffed units of government can compete successfully in such "grantsmanship" exercises. On the other hand, the association that we represent applauds this new federal revenue sharing program, being mindful that Americans in all communities have basic needs that require public services and assistance.

When the Federal Revenue Sharing Act was enacted, it was understood that decisions concerning the use of federally shared revenues would be made by the recipient governments and not by the Treasury Department. Priorities for the uses of moneys are ordained locally and the citizenry of each community hold their officials accountable for the decisions made. Township officials who are

public-spirited individuals that give of their time for minimum, if any, remuneration are in no position to go to Washington and roam the halls of HEW, HUD, DOT and other departments to coax aid out of these agencies laden with red tape. Federal prescriptions developed for universal application may be laudable, but we do not have the time, patience or expertise to prepare the reams and reams of paper necessary to justify and document our qualifications for the hundreds of possible grant-in-aid programs. We in township government believe that townships and their *elected* officials are in a better position to determine the priorities of their own communities rather than *appointed* officials far removed from us, especially since their decisions are subject to evaluation by their constituents at the ballot box.

Our association supports the growing acceptance of the principle that revenue sharing is a necessary element in a 3-part federal aid mix. A well rounded federal aid system needs (a) categorical grants to stimulate and support state and local programs and areas of specific interest; (b) block grants to give states and localities greater flexibility in broad functional areas of national interest and (c) general support grants (revenue sharing aid) to reduce intergovernmental fiscal disparities and to enhance the ability of states and localities to meet their own diverse budgetary needs.

Those of us who work closely with state governments recognize that state revenue sharing with localities is a practice at least a generation old, whereas federal revenue sharing is a new concept or experiment in our American political system. The public debate over federal revenue sharing is in high gear and the greatest danger in evaluating the program is to exaggerate its benefits or condemn its shortcomings. Certainly the enactment of revenue sharing has not ushered out financial predicaments and crises in local governments nor has it produced a new generation of free-wheeling spenders of public moneys because of the minimum of red tape entained in securing federal revenue sharing funds. One of the most valued by-products of this new federal program has been to reverse the trend of power and authority accumulating in Washington at an ever-increasing rate.

There are many critiques that must be applied to evaluate this program, but we believe that the townships in America must score high marks when one asks, "Has the program increased local decision-making, increased citizen particpiation, properly husbanded funds with a minmum of compliance violations, and operated with dependability yet flexibility in such a way as to recognize and encourage the combination of national unity and local diversity that has made ours the strongest of nations for nearly 200 years?"

We are sure that the virtues and merits of the program have been outlined to you with repetition ad nauseam and little new or imaginative light has been cast on the subject. However, we are now in October 1975 and all units of government including the various states, cities and counties have urged upon you the importance of an early congressional decision about the future of continued revenue sharing. The need of townships to know about their future revenue sharing entitlements at an early date is greater than their need for advance information about categorical aids. Shared revenues become a part of the general fund of townships which is not necessarily the case with other aids. These funds support essential day-to-day service which in many cases would be eliminated or paid for with higher local taxes should revenue sharing terminate. As reported by the Department of the Treasury, the program was intended to allow, along with other things, hard-pressed jurisdictions to maintain essential existing services, to reduce taxes or to prevent tax increases.

In this current period of national economic uncertainty and unprecedented deficits, the economic situation at our local governmental level is also severe where the problems resulting from inflation and rising unemployment have reached crisis proportions. As distinguished from the townships, the federal government has preempted many sources of taxation and has a superior revenue-raising instrument in the income tax—the most responsive and equitable tax in use—as well as other fiscal and monetary tools that it alone possesses. Additionally, the federal government has the primary responsibility for the management of our economy. If revenue sharing is to remain true to its original concept and is to serve its purpose of underpinning local budgets, it should not be cyclical but a stable and continuing program.

Mr. Chairman, we are honored to have had this opportunity to present testimony and would be pleased to submit any other material or data which might be useful in your deliberations. For the remainder of our allotted time, we invite your questions and will attempt to supply the answers to the best of our ability.

OFFICE OF REVENUE SHARING, RECIPIENTS PAID TO DATE

State name	Jan. 1, 1972 through July 1975					Total
	State	Counties	Municipalities	Townships	Indian tribes and Alaskan Native villages	
Alabama	$115,160,065	$86,581,679	$146,038,746	----------	----------	$345,780,490
Alaska	8,834,761	6,463,046	10,287,426	----------	$553,325	26,338,972
Arizona	67,994,486	54,506,663	75,581,778	----------	6,900,530	203,983,457
Arkansas	74,927,712	76,654,607	60,149,852	----------	----------	211,732,171
California	724,821,784	874,015,156	575,139,231	----------	478,180	2,174,454,351
Colorado	71,381,463	50,414,335	92,338,268	----------	135,446	214,269,512
Connecticut	86,303,594	----------	92,080,409	$80,660,277	----------	259,044,280
Delaware	23,146,664	22,596,835	15,503,192	----------	----------	6,146,691
District of Columbia	91,015,007	----------	----------	----------	----------	91,015,007
Florida	198,916,203	176,840,701	221,458,702	----------	73,601	597,289,207
Georgia	142,171,245	164,575,878	119,588,599	----------	----------	426,335,722
Hawaii	29,994,782	14,936,823	45,052,740	----------	----------	89,984,345
Idaho	27,384,604	31,552,405	22,917,760	----------	303,437	82,158,206
Illinois	347,441,827	155,568,698	390,599,436	91,102,255	----------	984,712,216
Indiana	144,062,479	97,849,573	155,708,184	34,523,971	----------	432,144,207
Iowa	96,075,827	111,788,922	80,396,455	----------	42,080	288,303,284
Kansas	65,266,394	66,479,555	56,786,507	7,185,899	26,547	195,744,902
Kentucky	128,030,743	94,964,871	109,842,528	----------	----------	332,838,142
Louisiana	158,344,720	126,907,850	182,533,262	----------	21,441	467,807,273
Maine	41,465,123	5,513,644	34,282,276	42,960,225	161,403	124,382,671
Maryland	134,656,945	156,941,250	112,343,126	----------	----------	403,941,321
Massachusetts	214,721,510	24,763,077	241,832,172	163,453,905	----------	644,770,664
Michigan	288,725,643	168,262,182	356,703,127	52,663,569	94,115	866,448,636
Minnesota	134,691,595	143,660,546	109,071,993	16,554,950	834,928	404,814,012
Mississippi	116,126,839	139,955,093	78,272,288	----------	149,419	334,503,639
Missouri	127,590,365	84,264,737	164,873,879	5,786,066	----------	382,515,038
Montana	26,900,933	35,742,465	16,103,433	----------	1,955,972	80,702,803
Nebraska	48,702,774	48,429,863	45,666,645	3,101,302	203,292	146,103,876
Nevada	14,928,977	18,665,896	10,951,580	----------	240,480	44,786,933
New Hampshire	21,730,195	5,712,502	20,618,077	17,286,638	----------	65,355,412
New Jersey	213,440,159	149,289,523	189,992,778	87,814,200	----------	640,536,660
New Mexico	44,220,647	35,010,450	43,650,825	----------	5,712,520	128,594,442
New York	758,541,469	325,245,792	1,030,939,323	160,444,605	406,134	2,275,577,323
North Carolina	174,220,652	187,405,816	161,359,224	----------	376,681	523,362,373
North Dakota	26,833,992	27,625,273	17,944,734	—7,007,516	1,103,144	80,514,659
Ohio	271,361,682	171,584,606	318,193,498	52,984,312	----------	814,124,098
Oklahoma	76,178,059	55,906,117	95,079,497	----------	1,369,281	228,532,945
Oregon	67,523,844	51,404,208	83,421,450	----------	220,026	202,569,528
Pennsylvania	357,287,636	201,788,879	399,916,912	113,441,413	400	1,072,435,240
Rhode Island	30,592,704	----------	43,526,722	17,658,688	----------	91,778,114
South Carolina	95,414,245	97,739,079	86,550,538	----------	----------	279,703,862
South Dakota	30,077,118	35,048,697	18,707,374	4,317,291	2,068,920	90,219,400
Tennessee	128,627,446	111,785,649	147,911,898	----------	----------	388,324,993
Texas	322,723,121	239,817,478	404,118,019	----------	66,603	966,725,221
Utah	40,131,850	39,891,485	39,695,528	----------	621,568	120,340,431
Vermont	19,111,978	468,861	13,186,518	24,637,547	----------	57,404,904
Virginia	134,725,159	99,655,395	170,222,681	----------	6,168	404,609,403
Washington	98,102,796	87,909,221	107,478,130	3,481	834,761	294,328,309
West Virginia	87,560,213	52,432,196	60,841,987	----------	----------	200,834,396
Wisconsin	170,970,602	169,552,148	145,225,735	27,072,119	525,480	513,346,084
Wyoming	12,558,984	13,268,737	6,481,972	----------	367,261	37,676,954
National total	6,931,727,597	5,202,638,876	7,225,167,014	1,010,660,149	24,853,143	20,395,046,779

Senator HATHAWAY. Our next panel of witnesses is the Ad Hoc Coalition of Revenue Sharing Reform: Nan Waterman, on behalf of the U.S. League of Women Voters; Woody Ginsberg on behalf of the Center for Community Change; William Taylor, on behalf of the Center for National Policy Review, Catholic University Law School; Clarence Mitchell, on behalf of the Leadership Conference on Civil Rights.

STATEMENT OF NAN WATERMAN, VICE PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

Ms. WATERMAN. I am Nan Waterman, second vice president of the League of Women Voters of the United States, and I and my fellow

panelists are speaking to you today as representatives of the Ad Hoc Committee on Revenue Sharing Reform. We represent a broad cross-section of American citizens from trade unions, civil rights, and numerous public interest groups.

Many of the organizations in the committee have individually or in cooperation with other groups, made lengthy, careful, and detailed reviews and analyses of how general revenue sharing has operated at the National, State, and local levels.

During our monitoring and research efforts, we posed the following questions:

Were funds spent in compliance with nondiscrimination provisions?

Were the allocations under the act's formula responsive to jurisdictions faced with the heaviest service demands and financial strains?

Were citizens participating in a significant manner in decision-making and as part of this concern, did the reports and the public hearings under the act foster such participation?

Was Federal oversight exercised effectively, and did the funding arrangement of entitlement meet the requirement of adequate accountability of local officials?

In the letter and explanatory memo sent by the ad hoc committee to members of the Senate Finance Committee on August 24, 1976, we expressed our view that while H.R. 13367 as adopted by the House of Representatives, does correct a number of the deficiencies in the present law, it nevertheless fails to incorporate a number of essential basic reforms. Furthermore, in the cases where the reforms have been made, the modifications regrettably go only part way toward remedying weaknesses.

Briefly, our coalition's views on the four areas of major concern are:

One: Nondiscrimination.—The House of Representatives did approve a series of strengthening civil rights provisions which on their face assure that no general revenue sharing money may be used in any program which discriminates against persons because of race, color, religion, sex, national origin, age, or handicapped status.

However, the House failed to include a critical companion amendment calling for the payment of reasonable attorney fees to successful plaintiffs. Such payments are essential for persons who have been victimized by discrimination in order to secure legal assistance in pressing their charges.

The ad hoc committee strongly urges the Senate Finance Committee to include language providing for the payment of attorney fees.

Two: Allocations formula.—With regard to the allocations formula, the ad hoc committee found that the present general revenue sharing formula fails to give adequate recognition to communities with high numbers of families with incomes below the poverty level.

Recognizing this failure, the House Government Operations Committee approved a reform, the so-called Fascell formula, which would have distributed $150 million of the available funds according to the number of poor people living in a community.

A "hold harmless" provision was added to insure that no jurisdiction would receive fewer general revenue sharing funds than it had during the calendar year 1976.

Unfortunately, the full House rejected this supplementary formula.

The principal concern expressed by those who opposed the Fascell

compromise was that only those States which would to better under the Fascell formula would stand to gain from any growth in the program beyond its existing level.

To meet that concern, while at the same time providing some additional assistance to jurisdictions with the greatest need, we would like to propose that the interstate allocation be calculated on the basis of the existing formula, while calculating the intrastate allocation on the basis of the Fascell formula.

The expected effect of this proposal would be: (*a*) To hold each State harmless at the $6.65 billion level provided for in the House bill; (*b*) to permit all States to share in any growth in the program beyond $6.65 billion; while (c) redistributing to a small extent the allocation of money within a State in order to provide some additional assistance to jurisdictions with the greatest need and the least ability to tax.

Another problem with the allocation formula is that the minimum and maximum provisions of the general revenue sharing formula serve to further aggravate the inequities for communities most in need. The current ceiling of 145 percent drastically reduces funds for such major cities as Detroit, Boston, Baltimore, Newark, and Washington.

Estimates presented at the House committee hearings show over 900 jurisdictions receiving less than the formula would otherwise provide because of this arbitrary cap.

Conversely, the GAO estimates that over 1,000 communities—some of the wealthiest in the Nation—receive more than the formula would otherwise provide because of the minimum guarantee.

We urge elimination of the minimum floor and suggest raising the maximum ceiling from 145 percent to 300 percent.

Three: Citizen participation.—In my written testimony, I have dealt at length with the citizen participation issues, but let me briefly summarize.

It should be emphasized that reforms in the area of citizen participation elicited wide support from both sides of the aisle both in committee and on the floor.

The House bill makes important improvements in the reports which local government officials must publish, the hearing procedures to be followed, and in the link between GRS and the overall budget of the local jurisdiction. We hope that these amendments will be accepted in full by the Senate.

There are, however, some points which need to be clarified. The House bill contains two waivers. The first is a waiver of the requirements for publication of the proposed use reports and narrative summaries.

The second is a waiver of the requirement for a prereport hearing. As we have stated more fully in our written testimony, the circumstances under which these waivers are appropriate need to be spelled out more clearly either in the bill itself or in accompanying report language.

Second, because of the change in the Federal fiscal year, there is a need to take into account the fact that most State and local governments operate under different fiscal years.

Finally, we would like to express our opposition to any attempt to exempt local governments from filing their proposed use reports with

the Federal Government. We are also adamantly opposed to any delay in the implementation of the provisions in the House bill dealing with citizen participation, public information and audit requirements.

Four: Oversight.—Finally, with regard to oversight, the ad hoc committee believes that Congress should not forgo its responsibility to periodically review the operation of the general revenue sharing program.

As our largest domestic grant program, general revenue sharing should be subject to the same kind of periodic review and analysis which Congress regularly conducts for other legislation. That is why we strongly urge that general revenue sharing be subject to the regular appropriation and budget process.

To provide local government officials with sufficient leadtime for planning local budgets, we support advanced funding plus regular congressional oversight and review for subsequent funding years.

Senator HATHWAY. Thank you.

[The prepared statement of Ms. Waterman follows:]

STATEMENT OF NAN WATERMAN, VICE PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, ON BEHALF OF THE AD HOC COMMITTEE ON GENERAL REVENUE SHARING REFORM

On October 30, 1975, I testified before the Subcommittee on Intergovernmental Relations and Human Resources of the House Committee on Government Operations on behalf of the League of Women Voters of the United States. At that time, I explained how the League, as a result of its decade-long support of categorical aid programs aimed at combating poverty and discrimination and obtaining equal access to housing, employment and quality education, had come to take a careful look at the general revenue sharing concept when it originally was proposed.

As I further stated in my testimony, "Since general revenue sharing has been signed into law, the League's concern over the unrestricted flow of federal funds has been reinforced by the impoundments, reductions and terminations of many categorical programs, particularly those designed to aid minorities and the poor." In earlier testimony, the League had expressed concern that "... returning power to the people should not mean an abandonment by the federal government of its responsibility to generate, finance and oversee programs which further the general well-being of all the nation's people, on an equitable basis."

For over three years, the League has been closely studying the general revenue sharing program through the extensive field monitoring carried out by the League of Women Voters Education Fund as part of the National Revenue Sharing Monitoring Project. The Project's intensive monitoring effort at the national, state and local levels, carried out jointly by the League, the Center for Community Change, the Center for National Policy Review and the National Urban Coalition, has been thoroughly documented in several publications which have been widely disseminated to members of Congress, policy makers, national public interest organizations and interested local groups. During this past winter and spring, the Project has conducted a "second-round" of monitoring the implemention of general revenue sharing at the local level. We are presently analyzing our findings and anticipate releasing a publication that will document them for concerned observers of the GRS program in the next few months.

In addition to the ongoing monitoring efforts of the Projects, many of the 1,300 local Leagues around the country have formally or informally undertaken studies of general revenue sharing in their communities. The critical problem areas that the League has identified in the operation of general revenue sharing—inequities in the allocation formula, lack of civil rights compliance, inadequate citizen participation and public information provisions, absence of national oversight, and lack of incentives for government modernization—have all been observed first-hand through these monitoring efforts.

The League of Women Voters of the United States has been working throughout the GRS legislative renewal debate along with the other civil rights, public interests and labor groups that constitute the Ad Hoc Commitee on General

Revenue Sharing Reform to bring about improvements in the general revenue sharing program. On behalf of the Ad Hoc Committee, I would like to address myself in this testimony to the citizen participation provisions under the general revenue sharing program.

Under the existing general revenue sharing law, recipient governments have been required *only* to publish the mandated planned and actual use reports for each entitlement period in order to fulfill their citizen participation requirements. Given these bare requirements, is it any wonder that Leagues and other local monitors have consistently found minimal citizen involvement in decisions on how to use GRS funds?

Although the rhetoric surrounding the passage of general revenue sharing implied that it would bring government closer to the people, the transfer of funds without restrictions on their expenditure and without provisions for citizen input has frequently resulted in a cavalier attitude toward GRS funds on the part of local government officials. For example, during the first-round on Project monitoring, League monitors in St. Louis County found that the county executive proposed to use GRS funds to build a golf course and other recreational facilities in an under-populated part of the county, despite the fact that a similar proposal had been defeated by the voters when put to an earlier referendum. In its testimony during the House oversight hearings on general revenue sharing, the Southern Regional Council made the same point: local governments frequently have used GRS funds to pay for pet projects which have already been voted down by their constituencies. In order for citizens to be informed about and involved in decisions on the local use of GRS, provisions for timely public notification and hearings must be included in the legislation.

H.R. 13367, passed by the House of Representatives on June 10, included several amendments to the 1972 General Revenue Sharing Act that strengthen considerably the existing weak provisions for citizen participation and public information on program decisions and expenditures. The Ad Hoc Committee is pleased with the steps that the House has taken to enhance citizen involvement in the general revenue sharing program and urges incorporation of the strengthened provisions by the Senate Finance Committee. It should be emphasized that reform in the area of strong citizen participation provisions elicited wide support in subcommittee, committee and in the full House from both sides of the aisle.

I would like to enumerate the positive amendments in the House bill and the reasons why the Ad Hoc Committee supports them.

(1) *Reports on Proposed Use of Funds.*—H.R. 13367 requires recipient jurisdictions not only to report on how they expect to spend their allotments, but also to provide comparative data on how the funds were spent during the previous two entitlement periods. These reports must compare proposed, past and current use of GRS funds to the relevant functional items in the local budget and must also indicate whether a proposed use of revenue sharing funds is for an existing activity or for tax stabilization or reduction.

The planned use reports required by the existing GRS legislation are so unspecific that the disappearance of GRS funds into the general fund has become standard local practice. More detailed information, particularly on the relationship of GRS funds to the overall local budget is critical, if the proposed use reports are to be of any real use to citizens in making up their minds about the validity of the proposed expenditures. Moreover, in order for ORS to report to Congress annually on the use of GRS funds as required by H.R. 13367, ORS must be able to account for their expenditure at the local level.

(2) *Reports on Use of Funds.*—Like the *proposed use reports* (PURs), the *Actual Use Reports* (AURs) must show the relationship of the expended GRS funds to the relevant functional items in the local budget. Further, these reports, which must be available to the public for inspection and reproduction, are required to explain all differences between how a local government had *proposed* to use its GRS funds and how it *actually* spent them during an entitlement period. In order to effect both local citizen oversight and national oversight, the AUR *must* reflect differences between proposed and actual expenditures.

(3) *Public Hearings.*—H.R. 13367 mandates *two* public hearings: the first one is a pre-report hearing to be held at least seven days before submission of the proposed use report to the Secretary of the Treasury; and the second one is a pre-budget hearing to be held at least seven days before the adoption of the local budget. The intent of those individuals and groups in and out of

Congress who are concerned with an expansion of opportunities for citizen participation in the GRS process is to tie the GRS decision-making process as closely as possible to the local budgetary process. The requirement for two hearings, one on the proposed use of GRS funds and a subsequent one on the overall budget (incorporating the use of GRS funds) represents an attempt to encourage citizen involvement in the total budget process. The existing GRS law mandates nothing at all in the way of public hearings.

(4) *Notification and Publicity of Public Hearings: Access to Budget Summary and Proposed and Actual Use Reports.*—Thirty days before the pre-budget hearing is held, the proposed use report, a narrative summary explaining the proposed local budget, and a notification of the pre-budget hearing must be published in at least one newspaper of general circulation. Also, the proposed use report, narrative summary and official budget must be made available to the public for inspection and reproduction. Adequate notification about the budget hearing and a chance to review the proposed use report and the local budget are critical in assuring informed citizen input.

We emphasize that the time framework laid out in H.R. 13367 provides the minimal reasonable notice. One month to assimilate the proposed use report and local budget and one week between public notification of the pre-budget hearing and the actual hearing is not a burdensome requirement to impose on state and local governments. We hope that they will take it upon themselves to expand on this provision freely.

Within 30 days after its adoption, the local budget must be published in at least one newspaper of general circulation, along with a narrative summary explaining it (including an explanation of changes from the proposed budget and the relationship of GRS funds to the relevant functional items in the budget.) The narrative summary must be made available to the public for inspection and reproduction.

The purpose of publishing the local budget and the narrative summary is to make the final budget decisions accessible to the local citizenry. No matter how much input citizens have into the budget. They will not be able to conduct effective oversight unless the final budget is readily accessible and understandable to them.

Copies of the proposed and actual use reports must be furnished by the Secretary of the Treasury to the Governor of the State in which the local jurisdiction is located. The local government must furnish copies of its proposed use reports to the area-wide organization which carries out the provisions of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Section 401 of the Intergovernmental Cooperation Act of 1968, or Section 302 of the Housing and Community Development Act of 1974. Although H.R. 13367 does not include the specific incentives toward government modernization that the Ad Hoc Committee hoped to see enacted, we feel that these new requirements for sharing information on GRS expenditures are certainly a useful step in the direction of intergovernmental cooperation.

Despite the improvements made in the area of citizen participation by H.R. 13367, there are a couple of aspects of the provision which concern us:

(1) *Waiver of the requirements for publication of the proposed use reports and narrative summaries.*—According to the language of H.R. 13367, requirements can be dropped (in accordance with regulations of the Secretary) where cost would be "unreasonably burdensome" in relation to entitlement or where "publication is otherwise impractical or unfeasible." Also, the 30-day requirement (the PUR is supposed to be published at least 30 days before the budget hearing) can be modified if the Secretary is satisfied that citizens will be notified adequately.

Although the waiver was intended to exempt those few jurisdictions for which the requirements would be excessive, the language as it now stands does not adequately reflect the legislative intent of the subcommittee, full committee, or House. Of particular concern to us is the inclusion of the phrase "when publication is otherwise impractical or unfeasible." We know from our observation of legislative proceedings that the intent of the House was to make the notification requirements reasonable for small jurisdictions—such as those who may not have a newspaper and where notification might be better accomplished by a public posting of notice or inclusion of a notice with the local gas bill; or those jurisdictions which receive such a small entitlement that the publication requirement would indeed be truly burdensome. We suggest that language be included in

the Senate bill or in the accompanying Committee Report, to clarify the publication waiver according to its original legislative intent. We believe this would be useful to ORS in developing regulations to implement the new law and would help to clarify the appropriate use of waivers for local government officials.

(2) *Waiver of the requirement for pre-report hearing.*—The bill permits recipient jurisdictions to waive this requirement (in accordance with regulations of the Secretary) if the cost is "unreasonably burdensome" in relation to the jurisdiction's allocation. Although the intent of the House was clearly to exempt small units of government which get minimal allocations, the language of the bill does not make this legislative intent adequately clear. Again, we think it would be helpful to both the ORS and local communities to include in the Senate bill more specific language defining "unreasonably burdensome."

As I have mentioned, the intent of the strengthened citizen participation provisions is to link the GRS decision-making process to the local budgetary process. However, in a couple of instances the language of H.R. 13367 inadvertently loses sight of implementing this laudable goal. The League of Cities has accurately pointed out the notification, hearing and reporting provisions logically should be tied to the government's fiscal year rather than to the federal government's fiscal year. Many local governments begin their fiscal year on July 1, January 1, or on other dates than October 1. The language of H.R. 13367 ties the date of pre-proposed use report hearing to the submission of the proposed use report to the Secretary by requiring that the hearing be held seven days before the PUR is submitted. Submission of PURs is to be made "at such time before the beginning of the entitlement periods as the Secretary may prescribe." Since the GRS entitlement periods are fixed according to federal rather than local timetables, we suggest that the language of the Senate bill should be changed to coordinate submission of the PURs to the local government's fiscal year schedule rather than to the federal government's entitlement schedule. In that way the hoped-for coordination between GRS planning and the local budgetary process would be maximized and no problems would arise with awkward timetables. Similarly, actual use reports, rather than being submitted "at such time as the Secretary may prescribe," as in the present language of H.R. 13367, should be similarly tied to the local government's fiscal year by requiring their submission at the end of the local government's fiscal year.

Although we fully concur with the League of Cities concern that hearing and reporting timetables be linked to the local government's fiscal year, we part company with them on their suggestion that only the actual use report be submitted to the Secretary, on the grounds that it includes all the information needed by the Federal Government, including a comparison with proposed use report. From an accountability, auditing, and enforcement perspective, waiver of submission of the proposed use reports to the Federal Government is a bad idea. Although the actual use reports do require an explanation of all differences between the proposed and actual expenditure of funds, this requirement would have no teeth if the proposed use of funds were not initially submitted.

The intent of the House in including more rigorous requirements was to assist local citizens, ORS and Congress in maintaining more effective oversight of the GRS program. How will ORS be able to examine what a local jurisdiction is doing with GRS funds if it has only an after-the-fact explanation of differences rather than a substantive proposed use report with which to compare the actual use report? The argument can also be put forth that if ORS is to develop a more meaningful compliance program, then fully a year would elapse before it looked at how recipient jurisdictions were carrying out the new requirements for increased specificity in the proposed and actual use reports. The requirement for submission of proposed use reports does not, it should be pointed out, impose any added burden on local jurisdictions, since they are already mandated under H.R. 13367 to publish them locally and to submit them to area-wide intergovernmental planning bodies.

We also disagree with the League of Cities' suggestion that the new annual audit requirements be gradually phased-in. H.R. 13367 states that the Secretary must publish regulations to implement this new requirement by March 31, 1977. We think that six months—assuming likely passage of GRS legislation the near future—provides enough phase-in time for state and local governments. They have, after all, been administering the program for over five years. Also, it should be noted that H.R. 13367 modifies its own audit requirements by stating that the regulations should allow more simplified procedures or less frequent audits for governments when the cost is unreasonably burdensome in comparison to the entitlement.

The League of Cities suggests that all the new reporting, hearing, publication and auditing requirements should not become effective until October 1, 1977. Again, we strongly disagree with deferring implementation of the new requirements until one entire GRS entitlement period has passed. Such a deferral would mean that most state and local governments would be able to let their next round of budget cycles go by without putting into effect any of the new hearing and publication provisions to foster citizen participation.

Our last comment on the League of Cities proposal on citizen participation concerns their suggestion that for internal consistency, the word "item" should be replaced with "relevant functional item" in Section 121(d)(1)(a)(ii). We strongly urge that the present language be retained. The legislative intent of the use of "item" is very clear here. Specifically, the section states that in the budget to be made available to the public (along with the narrative summary and PUR) before the budget hearing is held, each *item* to be funded with GRS funds must be specified. In addition, the amount of funds budgeted for that item and percentage of the funds that come from the local government's allocation also must be specified. For example, the local government must state what specific *item* it is proposing to spend GRS funds on, such as a new fire truck, rather than merely on the relevant functional item—in this case public safety. The PURs and AURs, it should be noted again, require specificity regarding only the revelant *functional* items in the local budget. It is clear that without the provision for line item specificity in the published proposed budget, citizens will have no way of pinpointing exactly how the local government plans to spend its GRS funds in full detail.

In conclusion, I would like to reaffirm our support of the amendments in H.R. 13367 that would strengthen citizen involvement in the general revenue sharing program and urge their enactment by the Senate.

Senator HATHAWAY. Mr. Taylor.

STATEMENT OF WILLIAM TAYLOR, ON BEHALF OF CENTER FOR NATIONAL POLICY REVIEW, CATHOLIC UNIVERSITY LAW SCHOOL

Mr. TAYLOR. I am William Taylor, and I am going to address myself to the civil rights aspect of the legislation. I am pleased to be here, and both pleased and honored that Clarence Mitchell has associated himself with my testimony. Both of us are available for answering questions.

I'd like to make three major points before getting into the text of the legislation. The first is that administrative enforcement, which is what is provided for in this bill, is absolutely crucial to protecting the rights of citizens to be free from discrimination.

That is really the principle that Congress established in 1964 under title VI of the Civil Rights Act. Congress decided then that despite the availability of court suits, the right of citizens to go into court, and the right of the Government to go into court, that those remedies are insufficient when you are dealing with problems that are as entrenched as these problems of discrimination are.

Because title VI was enforced, we had a great deal of progress in dealing with desegregating the schools, desegregating the hospitals, and desegregating other public facilities. This progress would not have been possible if one simply said, "let us rely on the courts." That is what is at stake right here.

Second, we have had a great deal of discrimination that has occurred with the use of revenue-sharing funds. You have held some hearings on that. Further, this discrimination is documented in reports that our group has issued and in a report we prepared for the National Science Foundation. I will not go into detail, except to say it occurs in the area of public employment at both the State and local

level. Employment is a critical area, because public employment is where employment opportunities are growing. If minorities and women do not have the opportunity to participate there, then their situation will not get better. It may, indeed, get worse.

Third, the record of the Department of the Treasury in handling the responsibilities that Congress gave it in enacting the 1972 law has been almost totally devoid of accomplishment. We have not seen effective redress of complaints of discrimination. We have not seen affirmative action. That, too, I would be prepared to back up, if there are questions about it.

In fact, the default of the Department of Treasury regarding civil rights enforcement was so pervasive that it led the House of Representatives to make significant changes in section 122.

I want to briefly summarize the most important of those changes and briefly explain why we think they are vital to protect the rights of citizens to be free from discrimination.

H.R. 13367 includes:

First, a requirement that new revenue sharing payments be suspended or deferred if, 90 days after a finding of discrimination by the Secretary of the Treasury, a court or another Federal or State agency, compliance has not been secured.

There has been some comment this morning, indicating that everybody is for fairness and due process. I want to assure you there is fairness and due process in the proceedings outlined in the House bill. Not a dollar of funds will be cut off, or even temporarily suspended, without the opportunity for hearing.

The necessity for this provision was the absolute refusal of the Department of Treasury to use the fund withdrawal provisions provided in section 122. The only time funds have been suspended was when a Federal court ordered Treasury to defer payments to the city of Chicago because of blatant practices of discrimination in its police department.

The goal, of course, is not to deny needed funds to States or localities, but to secure compliance with the law.

The experience of other Federal agencies has demonstrated that once an agency makes it clear that it is prepared to withhold funds from law violators, it rarely is required to do so; since most recipients will remedy discrimination without awaiting sanctions. Treasury has refused to learn this lesson and as a result, it has almost no record of achievement to show for 4 years of effort.

The key, in our view, is a credible sanction, one that can be utilized at appropriate and expeditious points.

Second, the House bill has a requirement that where recipients are charged with discrimination, they assume the burden of proving that revenue sharing funds are not being used for the discriminatory activity in question. This provision deals with a loophole in the current law that has been documented by the GAO and others. Because of the fungible character of revenue sharing funds, recipients are now able to shield themselves from liability by designating funds for activities not vulnerable to charges of discrimination while actually making the money available for other programs or activities.

Third, I would like to discuss the prohibition against discrimination because of religion, age, or handicapped status. Discrimination

because of race, color, national origin, or sex was prohibited by the 1972 law. This amendment was occasioned by findings that discrimination on grounds of religion, age, or handicapped status is a continuing problem in activities financed by revenue sharing, particularly in State or local employment.

The religious provision has prompted much discussion; let me respond to this.

The concern that has been voiced is that the ban on religious discrimination would interfere with legitimate activities such as giving preference in employment or service by a religiously operated institution to members of the same religion.

These concerns are not warranted and are based on an apparent failure to read the House bill carefully. H.R. 13367 explicity says that the prohibition is to be interpreted in accordance with title VII of the Civil Rights Act of 1964 and title IX of the education amendments of 1972, as well as other civil rights laws.

Both of these titles specifically accord to religious organizations the right to give a religious preference and these exemptions under the House bill are incorporated by reference into revenue sharing.

The only conceivable source of concern would be that this preference applies explicitly only to employment and education services and not to other types of services that may be funded through revenue sharing through grants by State and local governments to religious organizations.

This problem, if it is one, could easily be handled by a statement in this committee's report that the religious exemption is intended to apply to all types of services and funded by revenue sharing.

One also could state in the legislation itself that that exemption for religious preference applies to all types of services and activities.

I might add that I do not understand the earlier concern raised regarding age discrimination. There is no way that providing meals-on-wheels to older people or having a program for young people is going to be construed as discriminatory on the basis of age. There are court decisions that make this clear.

Fourth, there is a requirement in the House bill that the Treasury Department establish specific time limits for processing complaints and completing investigations. This provision is designed to deal with the problem of delays that have plagued Treasury's investigative process and that have kept complainants waiting for a year or more before the Department even determines whether there is a violation of law.

If these and other changes that the House incorporated into H.R. 13367 are enacted into law, for the first time citizens may have some reasonable assurance that the Federal Government will protect them from acts of discrimination in programs financed with their tax dollars.

I do want to urge consideration of one further amendment. While the House bill gives explicit recognition to the right of citizens to bring civil suits in Federal court to prevent discrimination in revenue sharing, it omits a provision adopted in the House Government Operations Committee permitting the court to make an award of attorney's fees to the prevailing party.

Without such a provision, under the Supreme Court's decision in

the *Alyeska Pipeline* case, a court can award such fees only in unusual circumstances.

Lacking an attorney's fee provision, few suits are being brought to remedy discrimination under revenue sharing, because only a handful of lawyers are able to provide representation for clients who cannot pay.

Similar statutory provisions authorize the award of attorney's fees in most civil rights statutes, including those dealing with education, housing, and employment.

There is every indication that these provisions have accomplished their purpose, that is, that they have aided in the vindication of rights established by Congress. There is no evidence that these provisions have led to frivolous or harassing suits, or to any other abuse.

Finally, I do feel compelled to say that there are many of us who have observed general revenue sharing closely over the past 3 years who have serious doubts as to whether the program should be continued in its present form.

Adequate funds have not gone to the places where the needs are greatest—the older cities and rural areas beset by poverty and decay.

In few places has a fair accounting of the real impact of revenue sharing aid been made to the citizens whose tax dollars are being spent or to the Congress which appropriates the funds. As a result, no one can say with certainty what benefits have flowed from the program.

Too, there is scant evidence that the revenue sharing program has encouraged local governments to engage in coopertive planning with their neighboring jurisdictions to deliver services more effictively and efficiently. If anything, the evidence indicates that municipalities continue to be unaware of the economics to be derived by joint action.

While I know you have held hearings on some of these matters, Senator, I feel bound to say that holding only 13 hours of public hearings on legislation which has already had $30 billion expended on its behalf, along with the proposed additional disbursement of $25 million seems to me to be grossly inadequate.

Many of the people who are urging extension of revenue sharing seem to regard it as a kind of holy writ that was handed down in 1972. I would like to think that we could learn from our experience with revenue sharing laws; and that we could make the necessary adjustments to assure an equitable and efficient distribution of these funds.

I know the time is short, and I know that you have seen the report that our group has issued on this subject; however, I would urge the committee to at least look at some of the findings that have been made regarding some of these key issues on the basis of research, investigation, and monitoring, and judge not simply on the basis of the self-serving statements of the various interest groups, including ourselves, who are vitally concerned with this program.

I hope with the limited time remaining, that this examination can still be undertaken. However, we feel absolutely convinced that if the revenue-sharing program is to be continued, it is essential that Congress not allow it to become a vehicle for dissolving the hard-line Federal protections against discrimination.

That is why we hope this committee will concur on the provisions that the House adopted for effective civil rights enforcement, and add a section authorizing attorneys' fees.

Thank you.

Senator HATHAWAY. Thank you.

I suppose on the attorneys' fees there could be some provision of the judge not awarding them when he thinks the case is frivolous.

Mr. TAYLOR. That is right. It would only go to a prevailing party in any case. It is hard to believe that a judge would ever think that a party who won this case brought a frivolous suit. In any event, it could be legislated that would be within the discretion of the judge, to award these fees where it is determined that the suit is substantial and not frivolous.

[The prepared statement of Mr. Taylor follows:]

STATEMENT OF WILLIAM L. TAYLOR, DIRECTOR, CENTER FOR NATIONAL POLICY REVIEW, SCHOOL OF LAW, CATHOLIC UNIVERSITY

Mr. Chairman and members of the committee: My name is William L. Taylor and I am Director of the Center for National Policy Review, a legal research and advocacy group affiliated with Catholic University Law School. The Center is one of a group of organizations that has engaged in an intensive effort over the past three years to monitor the operation of general revenue sharing in communities throughout the nation and to gauge the impact of the law upon minorities and poor people. Our fact-finding and research efforts have been directed particularly toward issues of equity—the fairness of the formula for allocating revenue sharing funds to states and localities and the implementation of the statutory bar against discrimination in the use of revenue sharing assistance.

I am grateful for the opportunity to share our findings and perspectives with this Committee and I am pleased and honored to be able to say that Clarence Mitchell, the Washington Director of the National Association for the Advancement of Colored People and Legislative Chairman of the Leadership Conference on Civil Rights, has associated himself with my testimony.

Since I know that the Committee's time is short, I will limit my testimony to the critical issue of enforcement of civil rights, but I ask the Committee's permission to insert in the record of these hearings my statement before a subcommittee of the House Government Operations Committee which deals with other changes that are needed to introduce greater equity, accountability and efficiency into the revenue sharing program.*

In enacting the State and Local Fiscal Assistance Act of 1972, the Congress recognized that notwithstanding its desire not to impose strings on recipients of federal aid, it had to take steps to assure that there would be no discrimination based on race or other invidious considerations in the use of revenue sharing funds. Accordingly, Section 122 of the Act applied to revenue sharing aid the basic principle established in Title VI of the Civil Rights Act of 1964—that every federal department and agency has a responsibility to assure that the grant programs it administers are operated in a nondiscriminatory manner.

Title VI was adopted because Congress understood that then existing remedies—private law suits and even court action initiated by the Department of Justice—were inadequate to cope with widespread and long entrenched practices of discrimination.

It is not too much to say that a very significant part of the progress made by black people and other minorities during the 1960s is traceable to this key decision that Congress made in the 1964 Act. As a result of vigorous enfocement of Title VI during its early years, much was accomplished in desegregating public schools and in removing the stain of racial discrimination from hospitals and other public facilities.

The enactment of a similar bar against discrimination in revenue sharing was of great importance because revenue sharing funds are widely used in two areas—state and local employment and public services—where problems of

*This was made a part of the official files of the committee.

discrimination existed but where few legal remedies were available prior to 1972.[1]

But the policy against discrimination expressed by Congress in Section 122 of the law has been frustrated by the failure of the Department of Treasury and its Office of Revenue Sharing to discharge their statutory responsibilities.

The inactivity of the civil rights unit of Treasury cannot be attributed to a sudden disappearance of problems of discrimination. In the studies our Center has conducted we have found widespread evidence of discrimination. We looked at 33 jurisdictions, mainly medium and large cities, and found that in the great majority there were wide gaps in the percent of minorities and women who were in the work force compared with the percent employed in particular city departments and agencies and often in the city as a whole. Many departments and agencies failed to employ minorities not only in professional and managerial positions but even in blue collar and secretarial jobs where minorities were employed elsewhere in the city.

The GAO has found similar disparities in studying other jurisdictions. These disparities reflect various kinds of practices that do not conform to the requirements of federal civil rights law—the use of tests for hiring and promotion that exclude minorities and that are not job related, the failure to adopt affirmative techniques for recruiting minorities and women, and sometimes just simple, blatant discrimination Even assuming that states and local governments are willing to cooperate in bringing their practices into compliance with the law, a major federal effort is clearly required. And with state and local employment constituting the most rapidly expanding field of job opportunity, it is also clear that such an effort by the federal government is crucial to the economic advancement of those who have been victims of discrimination.

Similarly, in the area of public services there is evidence of discrimination. In *Hawkins* v. *Shaw* and several other cases, federal courts have found classic "wrong side of the track" situations in which neighborhoods occupied by blacks were unpaved, unlit, inadequately served by drainage, sanitation and other services while white areas had better services across board. Revenue sharing is the first program permitting subsidies to all these kinds of municipal services. In larger cities, inequities in municipal services are not usually as blatant as those found in the *Shaw* case, but our study found that people in minority and ghetto neighborhoods had strong feelings that they were not receiving equal services. Such situations cry out for investigation and for the development of standards to gauge the equality of services subsidized by revenue sharing. To date, the Department of Treasury has taken neither step.

Indeed, the default of Treasury in civil rights enforcement has been so pervasive that the House of Representatives felt it necessary to make several significant changes in Section 122. I would like to summarize briefly the most important of these changes and the reasons we believe they are vital to the rights of citizens to be free from discrimination. H.R. 13367 includes:

(1) A requirement [122(b)(3)] that *new* revenue sharing payments be deferred or suspended if, 90 days after a finding of discrimination by the Secretary of Treasury, a court or another federal or state agency, compliance has not been secured. This provision was occasioned by the absolute refusal of Treasury to use the fund withdrawal provisions that Congress provided in Section 122. The only time funds have been suspended was when a federal court ordered Treasury to defer payments to the City of Chicago because of blatant practices of discrimination in its police department. The goal, of course, is not to deny needed funds to states or localities but to secure compliance with the law. The experience of other federal agencies has demonstrated that once an agency makes it clear that it is prepared to withhold funds from law violators, it rarely is required to do so since most recipients will remedy discrimination without awaiting sanctions. Treasury has refused to learn this lesson and, as a result, it has almost no record of achievement to show for four years of effort.

(2) A requirement that where recipients are charged with discrimination, they assume the burden of proving that revenue sharing funds are not being used for the discriminatory activity [122(a)(2)]. This provision deals with a loophole in the current law that has been documented by the GAO and others: that because of the fungible character of revenue sharing funds, recipients are

[1] In prohibiting private job discrimination, Title VII of the 1964 Act exempted state and local employment, a loophole that was not closed until 1972. Section 122 provides the chief administrative remedy for such discrimination and lawsuits by the Department of Justice are the major judicial remedy.

now able to shield themselves from liability by designating funds for activities not vulnerable to charges of discrimination while actually making the money available for other programs or activities.

(3) A prohibition against discrimination because of religion, age or handicapped status. Discrimination because of race, color, national origin or sex was prohibited by the 1972 law. The amendment was occasioned by findings that discrimination on grounds of religion, age or handicapped status is a continuing problem in activities financed by revenue sharing, particularly in state or local employment. Some concerns have been voiced about the possibility that the ban on religious discrimination would interfere with legitimate activity such as the giving of a preference in employment or service by a religiously operated institution to members of the same religion. These concerns are not warranted and are based on an apparent failure to read the House bill carefully. H.R. 13367 explicitly says that the prohibition is to be interpreted in accordance with Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 (as well as other civil rights laws). Both of these titles specifically accord to religious organizations the right to give a religious preference and these exemptions under the House bill are incorporated by reference into revenue sharing. The only conceivable source of concern is that this preference applies explicity only to employment and education services and not to other types of services that may be funded by revenue sharing through grants by state and local governments to religious organizations. That problem if it is one could easily be handled by a statement in this Committee's report that the religious exemption is intended to apply to all types of activities funded by revenue sharing.

(4) A requirement [124] that Treasury establish specific time limits for processing complaints and completing investigations. This provision is designed to deal with the problem of delays that have plagued Treasury's investigative process and that have kept complainants waiting for a year or more before Treasury even determines whether there is a violation of law.

If these and other changes that the House incorporated in H.R. 13367 are enacted into law, for the first time citizens may have some reasonable assurance that the federal government will protect them from acts of invidious discrimination in programs financed with their tax dollars.

One further amendment is needed however. H.R. 13367, while giving explicit recognition to the right of citizens to bring civil suits in federal court to prevent discrimination in revenue-sharing, omits a provision adopted in the House Government Operations Committee permitting the court to make an award of attorneys fees to the prevailing party. Without such a provision, under the Supreme Court's decision in the *Alyeska Pipeline* case, a court can award such fees only in unusual circumstances.

Lacking an attorneys' fee provision, few suits are being brought to remedy discrimination under revenue sharing because only a handful of lawyers are able to provide representation for clients who cannot pay. Similar statutory provisions authorize the award of attorneys' fees in most civil rights statutes including those dealing with education, housing and employment. There is every indication that these provisions have accomplished their purpose, i.e., that they have aided in the vindication of rights established by Congress. There is no evidence that these provisions have led to frivolous or harassing suits or to any other abuse.

Mr. Chairman, many of us who have observed general revenue sharing closely over the past three years have serious doubts about whether the program ought to be continued in its present form. Funds have not gone proportionately to the places where the greatest needs are—the older cities and rural areas beset by poverty and decay. In few places has a fair accounting of the real impact of revenue sharing aid been made to the citizens whose tax dollars are being spent or to the Congress which appropriates the funds; as a result no one can say with certainty what benefits have flowed from the program. There is scant evidence that the revenue sharing program has impelled local governments to engage in planning or to cooperate with their neighbors in delivering services more effectively and efficiently; if anything, the evidence goes the other way.

If, notwithstanding all this, the general revenue sharing program is to be continued, it is essential that Congress not allow it to be a vehicle for dissolving hard won federal protections against discrimination. That is why we hope that

this Committee will concur in the provisions for effective civil rights enforcement adopted by the House and add a section authorizing attorneys' fees.

Senator HATHAWAY. Mr. Ginsberg?

STATEMENT OF WOODY GINSBERG, ON BEHALF OF THE CENTER FOR COMMUNITY CHANGE

Mr. GINSBERG. My name is Woody Ginsberg. I am speaking on behalf of the Center for Community Change.

I do not have a formal statement to present for the record. I do want to associate myself with the remarks made by my colleagues in the league, with Mr. Taylor and the Center for Policy Review, the National Urban Coalition, and all of us who participated in what we consider to be one of the most extensive, careful, and ongoing monitoring investigations into the general revenue-sharing program.

I share some of the distress that my colleagues have with the discussion among some of the Senators and witnesses today regarding reporting. Let me just take a very brief minute or two on that.

I think that we should all keep in mind, that general revenue sharing was intended to assist those communities that were suffering financial stress as their tax bases were being reduced—those communities that were hit by both heavy unemployment and extensive service needs. All of the explanations in support of general revenue sharing for those areas were based on helping those communities where the needs are greatest and turning over to local governments, local officials, and local citizens—that I want to emphasize—local citizens, an opportunity to use those funds that are allocated to them in the most effective way.

That is why we strongly support the House-passed bill which calls for major additions of public information so that citizens can intelligently comment upon and advocate priorities that they wish to be addressed by their local officials.

Without the kinds of reports that are called for, the funds just get mixed up with the rest of the general revenues of that community, and became completely indistinguishable from those other dollars. Hence, citizens have no way of knowing whether these funds that are intended to serve the basic needs of those communities are in fact, being used that way, or whether they are being wasted in some frivolous manner, or being expended in such a way that they do not reach all of the citizenry.

If the testimony of all of the officials who appeared here before us is accurate, and they are spending those funds in ways that represent the most pressing needs in the community, that is fine, but we do need to have some way to check on it. If the local citizen groups for which we work are to be intelligent participants in the whole budget process, not only regarding how general revenue-sharing funds are being spent, they have to have basic facts on which to make their judgments. To suggest that just putting the money on the stump and letting the local officials spend it in whatever way they want without any kind of reporting seems to us indefensible. It seems to us to be completely contrary to much of the support which Congress, in 1972, gave to the general revenue-sharing legislation.

So I would strongly urge that the Senate in no way diminish or erode those new opportunities which we have outlined in our overall statement for a greater reporting to citizens, greater participation in public hearings, and greater opportunities for commenting on what the local government is going to do, so that citizens can indeed play a more effective role and participate more fully, as the law intended.

Thank you.

Senator HATHAWAY. Thank you.

Mr. Mitchell?

STATEMENT OF CLARENCE MITCHELL ON BEHALF OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. MITCHELL. Thank you, Mr. Chairman. I have no prepared statement. I am fully associated with Mr. Taylor's presentation, because in our method of operating in the Leadership Conference on Civil Rights and indeed, the NAACP, with which I am identified, we regard him as an expert in this field, and rely on him to present the kind of testimony that would most express our point of view.

In view of what went on in this committee this morning, and in view of what we now have before us, I am moved to make a couple of observations which I believe this country ought to have.

First: I want to say that I have been in the Nation's Capital more than 30 years working with the Members of Congress and trying to promote the idea of good government. I have served our country in the form of the United Nations as an official representative, and in that forum, I have tried to show the great value of our system of government.

I have a brother who is in the House of Representatives and serves on the Budget Committee of the Congress. My oldest son is a member of the Maryland Senate, and my third son is a member of the city council in Baltimore, where he serves on the budget committee.

I have a passionate commitment to the legislative process in producing the laws and the policies under which we live as a people.

Having said that, I would say that this treatment of the civil rights aspects of this problem, if I did not know what I know about the legislative process, if I did not believe in it, as I do, I would be completely disillusioned by what happened here this morning, and what we see now with the spectacle of empty chairs, some of which should be occupied by the very members of this committee who were having so much to say about what the black vote meant in some of the communities of this Nation.

It so happens that I know the community of Baton Rouge of which Senator Long and the mayor addressed themselves today. I happen to have received a key to that city the last time I was there, and it was because there has been a fundamental change in the electorate, the black voters coming out and voting for people who hold the reins of government.

I would say that it was my good fortune to share time with the Governor of Louisiana last year and again this year when he introduced me at a meeting down in New Orleans.

He would not be in office except for the fact that there has come enlightenment to the State of Louisiana, because of voting.

Senator Long, I am not sure you were here to hear him. In any event, he made the observation which had this import—that you do not need the civil rights protections because the black voters are down there voting for the mayor and Governor and so forth.

I would say that my recollection includes the period of this country's history when every single civil rights effort that we made was opposed by Senator Long, and I would say we all know in a period where there is guerrilla warfare against those great legislative accomplishments which were designed to protect civil rights in 1964, we got added to the law of this Nation title VI, which requires that there be no discrimination in the expenditure of Government funds. And because we have had that legislation, as Mr. Taylor has pointed out, we have been able to get doctors and nurses into hospitals where previously they would have been excluded, even though they were getting Federal money.

Because of that legislation, in many of the communities of our land—and indeed, the very one in which I live—we have been able to get benefits of government that would have been denied to us, because the law was not there, and I refer to this as guerrilla warfare because it is my belief that the kinds of observation that were made today are not designed merely to try to keep out of this legislation the provisions that have been passed by the House.

This is designed to make an attack on the principle of title VI and to destroy what we had won in the way of getting fairness in the expenditure of Federal funds for all of our citizens, and I would say that, if the black people of this country could hear what went on here today, it would be my opinion that they would be outraged, because here you have people—the very same people who when the Higher Education Act comes on the floor, if it does this week, are going to try to get in their amendments to thwart the decisions of the courts which would implement school desegregation.

Those same people are coming in here saying they do not want Federal strings attached to a law which, as Mr. Taylor has pointed out, spends billions of dollars, collected from all of the people, for purposes that may be frivolous or purposes that may be worthwhile, but it seems to me that since this money is collected from all of the taxpayers, those who receive it, who ought to be accountable to somebody and that somebody, it seems to me, ought to be the Federal Government.

I think that it is a cruel deception of the American people to try to make it appear that when the Federal Government seeks to have accountability to provisions requiring fairness to ridicule that and talk about bureaucratic intercession and things of that sort. I have tried, in my community, to implement some of these Federal provisions that are designed to help the people and I have found that the hostility against trying to implement them the way Congress intended to have the money spent is often monumental.

Speaking of accountability, there was an occasion in my church in a program that we had set up for the help of the poor that city officials did not like some of the people who were in it, and they actually attempted to prosecute a clergyman who had spent some money to try to assist a victim of a fire who was one of his church members.

Fortunately, commonsense prevailed, and he was not, and those same people who would seek prosecution against the clergyman because he tried to help one of his parishioners with some Federal money probably amounting to less than $100 are now up here saying let's give out $30 billion, $40 billion, whatever it is, and let them spend it any way they care to spend it.

I cannot imagine anything worse for the people of this Nation to take that kind of attitude, anything more discouraging, more likely to unite the fires of anger, than to say about this civil rights provision, we don't need it.

Finally, I would like to say it also grieves me to hear the kind of—I was trying to think of the adequate word. I have never been to a burlesque show in my life, but I would say that it was a sort of a burlesque-type of humor with which this thing was treated, even by my good friend, Mayor Gibson.

I cannot even believe in his city that they are so pure and so considerate of everybody that they do not need civil rights regulations to keep them in line.

I would not question the mayor personally, but I would say surely since his people are human, he must also have some people who would use prejudice instead of fairness in administering the law, and with respect to the religious situation, and on this I will close, I am a Methodist. I have nothing in a truly derrogatory way to say about my church or any church, but a church is also made up of humans.

I am the chairman of the board of trustees in my church, and I remember the great fight we had to desegregate the hospital right in this community that was owned by my church.

I am aware of the fact that many of these religious institutions that operate places where individuals are employed also discriminate, and so that was for that reason, and my long effort to get civil rights legislation passed, that I always asked that there be included prohibitions against discrimination on the part of race, national origin, and now sex. With respect to religion, I remember when we were fighting World War II we had a great battle to see that Seventh-day Adventists, to get opportunity to work, they could not work on their Sabbath, and for that reason they sometimes were not hired.

As I understand this provision, all we are trying to do is to say that when Federal money is expended for matters that permit or require the employment of people or the rendering of services that are available to the general public, nobody can discriminate against would-be recipients, or would-be employees, on the basis of religion, and it is inconceivable to me that people would have any trouble with that provision.

Therefore, I earnestly hope that we will, in fairness, include the language as it was passed by the House.

With respect to legal provisions, we have a very recent and present illustration of why it is an unequal contest where people seek to vindicate their rights.

In the State of Mississippi, we have just been hit as an organization, the NAACP with a judgment of $1.25 million against us because blacks in the city of Port Gibson, Miss. picketed as a protest against discrimination, and the irony of this is that in order to appeal, we

must put up a bond that is 125 percent of the judgment. In other words, just to appeal, we are going to have to put up $1.5 million and I cannot see how anybody could feel that it is an equal contest when the States that have access to the treasuries, cities that have access to the treasuries or those communities are engaged in a lawsuit with private people, and the private people must finance it out of their own pockets.

I thank you for your patience, Mr. Chairman, and especially for your being here.

Senator HATHAWAY. Well, Clarence, thank you very much for being here, and thank all of you.

As you pointed out, other members of the committee are not here.

I have a number of questions to ask you, because I am in support of everything that you said, and hopefully I can muster enough support on this committee to carry through on most if not all of the provisions necessary to carry it into effect.

I want to thank all of you for coming here, and I understand Senator Curtis will not be here. He had some questions to ask you that he will submit in writing to you, either today or tomorrow, and we will leave the record open for those questions.

Thank you very much.

The committee will recess for about 10 minutes, because there is a vote going on.

[A brief recess was taken.]

Senator GRAVEL. We will continue on with the hearing.

The next witness is Mr. John Cosgrove, the legislative director, Public Employee Department, AFL-CIO.

STATEMENT OF JOHN E. COSGROVE, LEGISLATIVE DIRECTOR, PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO

Mr. COSGROVE. Thank you, Senator.

Senator, I have a longer statement which you might make part of the record, but in conformance with the wishes of the committee——

Senator GRAVEL. Please. That would be accommodating.

Mr. COSGROVE. With your concurrence, I would like also to submit a letter addressed to the chairman of the committee just given to me by one of our AFL-CIO brother departments, the building construction trades department.

Senator GRAVEL. That will be placed in the record.

Mr. COSGROVE. Thank you, sir.

We very much appreciate this opportunity to testify in support of extension of revenue sharing on behalf of the 29 national unions which comprise the AFL-CIO Public Employee Department. Public employees are, of course, particularly concerned with the viability and adequacy of our local and State governments, for which many of them work.

I am John E. Cosgrove, for the record, legislative director of the PED. The local and State tax structures often combine inefficiency with inequities. Generally, with very few exceptions, Federal revenue raising is more efficient and more equitable. This alone would justify continuation of revenue sharing. There are, however, we think, other justifications.

The recession has increased the demand for State and local government services. At the same time it has diminished what would otherwise be available sources of revenue. On top of this, governmental units, like individuals and families, are suffering an inflation of the price structure signaled by the Consumer Price Index with the last 4 months running at an annual increase of 6.4 percent, or 171.1 percent of the 1967 base.

Almost literally then, as in the case of Detroit which recently discharged a large number of policemen, only to rehire them to maintain public order this last weekend, local governments are caught between the rock and the hard place. There is no need here to restate the long list of cities whose financial problems impair their own utility and threaten that of the States of which they are a part. New York City has just signaled more teacher layoffs in the last 3 days.

The basic culprit is the recession. The Congressional Budget Office in a March 1976 report estimated that for every 1 percent of unemployment, State and local governments lose an aggregate between $4 billion and $6 billion in tax revenues. Since even the understated official unemployment figure for last year was 8.5 percent and it has yet to decrease a full percentage point, as compared to a reasonable full employment goal of 3-percent unemployment, as a result of this, from $22 to $33 billion of tax revenues were lost to States and local governments due exclusively to the recession. CBO estimates during 1976 an additional $19 billion to $29 billion will be lost for the same reason.

While the past 12 months have seen a slight overall employment decrease, this experience has not been shared by public sector workers. The official unemployment rate for Government workers has increased 1.4 percent during the same period, an additional 77,000 individuals. Thus there is a lagging impact of the recession on State and local government workers. Some 712,000 government workers are unemployed—public workers unemployed that is—we have reached the highest ever record for July since statistics began to be compiled in 1950. The present unemployment rate in the public sector is at an historic high.

We urge the extension and continuation of general revenue sharing with these conditions:

One: That the revenue sharing supplement State and local government efforts and not serve as an alternate system of categorical grants.

Two: That an allocation formally target funds to jurisdictions which provide a high level of public services and which serve a large number of economically disadvantaged citizens.

Three: That education is included as an activity to be assisted by local revenue sharing.

Four: That revenue sharing rewards States which raise their own revenues through progressive tax structures.

Five: That strong civil rights enforcement be mandated, with machinery to determine adequacy of compliance.

Six: That recipient governments be required to comply with all provisions of the Fair Labor Standards Act.

Mr. Chairman, with these recommendations, we urge continuation and extension of revenue sharing.

Senator GRAVEL. Thank you very much.
I have no questions.
Mr. COSGROVE. Thank you, sir.
[The prepared statement and letter of Mr. Cosgrove follow:]

STATEMENT OF JOHN E. COSGROVE, DIRECTOR OF LEGISLATION, PUBLIC EMPLOYEES DEPARTMENT—AFL–CIO

The more than 1½ million members affiliated with the AFL–CIO Public Employee Department by twenty-nine national unions are vitally concerned with the extension of revenue sharing, both as citizens and, in the case of thousands of these employees who work for state and local governments, as individuals. Accordingly, we appreciate this opportunity to testify in these important hearings. I am John E. Cosgrove, Director of Legislation of the Department.

The generally superior efficiency of the federal government's revenue collection mechanism and, despite some gross inequities, its generally progressive character are basic reasons for the federal government to provide financial assistance to state and local governments. Since its enactment in 1972, general revenue sharing has become a central force is enabling state and local governments to provide basic services needed by our citizens at the state and local level. Some of these services can only, or can best, be provided by local or state government. If anything the demand for these services has increased during the recent period when, due to the recession and other factors, state and local revenues have not kept pace with the demand for public services at these levels.

Now that the extension of revenue sharing is before the Senate Finance Committee, the Senate and the House, we urge the extension of it. We suggest however, careful consideration of six specific points:

1. The law should insure that the general revenue sharing program is a supplement to state and local government tax revenues not an alternative system of categorical grant programs;

2. Congress should adopt an allocation formula under the general revenue sharing program which targets funds to jurisdictions which provide a high level of public services and contain a large number of economically disadvantaged citizens in their populations;

3. The program ought to include education as an activity for local general revenue sharing funds;

4. Congress should use the general revenue sharing program to reward those states which raise their own revenues through progressive tax structures;

5. The law should mandate strong Civil Rights enforcement under the general revenue sharing program, including a procedure for updating inadequate data which reflects a systematic pattern of discrimination; and

6. Congress should require all recipient governments under the general revenue sharing program to comply with all provisions of the Fair Labor Standards Act. This last is particularly important in the light of the decision of the Supreme Court of the United States in the *League of Cities* case. As you know, the case held, 5 to 4 that the direct application of the Fair Labor Standards Act to state and local government employees was, on the facts presented in that case, violative of the 10th Amendment which, in this case, limited the exercise of the Commerce Clause. We feel that the plenary power of the Congress to raise revenues and appropriate for the general welfare permits the attachment of such reasonable conditions as wage-hour requirements to the grants. It does not seem likely that the court would require Congress to abandon responsibility for grants it makes to state and cities for the general welfare.

As noted, we are particularly anxious that there be a continuation of revenue sharing because of drastic impact that the Recession has had on state and local revenues. Just this week the news media reported the situation in Detroit where law enforcement officers were laid off and, then, in the face of public safety problems, had to be rehired; New York City has just sent layoff notices to 3,500 teachers and 300 school supervisors. The Recession has increased the demand for state and local government services.

Major reductions in the quantity and quality of public services are being forced upon Americans in large part because state and local tax sources depleted by the Recession's severity have not been properly augmented through increased use of federal government tax revenues.

The cost to state and local governments of the current Recession is enormous. The Economic Report of the President issued in January, 1976, estimated that the lost tax revenues of state and local governments amounted to $27 billion compared to what they would have collected if there had been 4% unemployment during calendar year 1975.

The Congressional Budget Office in its report released in March of 1976 estimated that for every 1% of unemployment state and local governments lose between 4 and 6 billion dollars in tax revenues. Since, officially, unemployment was 8.5% during 1975 and a reasonable full employment goal would be 3% unemployment, the CBO estimates amount to a minimum of $22 billion and a maximum of $33 billion of lost tax revenues by state and local governments due solely to the Recession.

The Administration's policy of high unemployment is a policy which reduces tax revenues at all levels of government—state, local and federal. Therefore, the high unemployment policy reduces the quality of public services throughout the country. It must be realized that the decrease in quantity and quality of public services and goods delivered to the American public over the past year is a direct consequence of the Recession caused by the current Administration's economic policies.

At current wage levels over three million additional public employees could be hired by state and local governments with the lost revenues and tax receipts that were not available to state and local governments during 1975 because of the current massive recession in this country.

During the balance of 1976, no relief can be expected from the severe burdens which the economic Recession is placing upon the public sector's ability to continue financing the demanded quality and quantity of public services. The July official unemployment rate jumped up to 7.8%. On an annualized basis using the CBO formula this suggest an additional minimum of $19 billion and a maximum of $29 billion of lost tax revenues by state and local goverments can be expected during 1976 due solely to the continuing and presently deepening recession in the American economy.

Substantial increases in supplemental revenues must be immediately made available to state and local governments.

It is enlightening, in further support of this contention, to see the updated study "Budget Status of U.S. Local Governments," prepared by Program Planners Inc. We accordingly attach that valuable update to this testimony.

An overriding evil to be avoided for the employees involved, as well as for the general welfare, is the increased unemployment among government workers.

The Public Employees Department over a year ago warned that even if the economy as a whole were to stop its plunge toward Recession and begin a mild recovery, the public sector's recovery would lag considerably behind the turning point for the aggregate economy. Unfortunately, this prediction has been all too true.

The aggregate economy has shown over the last year a slight lessening in the intensity of the 1975 part of the Recession. In May, 1975, the official unemployment rate stood at 8.9%. This unemployment rate declined to 7.3% by May of 1976 but has sharply increased over the last two months to 7.8% or 7 million 400 thousand workers. Of course, if the discouraged workers and the part-time unemployed workers are included the unemployment rate for July 1976 is a double digit figure of 10.3%.

Over the last 12 months the mild improvement in the official rate of unemployment for the aggregate economy has not been shared by public sector workers. Between July 1975, and July, 1976, the official unemployment rate for the aggregate has decreased by 1.1% or 670,000 workers. At the same time the official unemployment rate for government workers has increased over the year from 4.1% to 4.5%. The number of unemployed government workers between July, 1975 and July, 1976 increased by an additional 77,000. Based upon the second quarter unemployment rate for government workers of 4.7% as compared to the first quarter's rate of 4.4%, it can be seen that the lagged Recession impact upon state and local government workers is continuing and the Recession for these workers is deepening.

The 712,000 government workers unemployed in July, 1976 is by far the highest unemployment level ever recorded in July since such statistics began to be compiled back in 1950. In fact, over the 25-year period, 1950–1974, unemployment in July among government workers has averaged only 2.1%. There-

fore, the rates for July, 1975, of 4.1% and July, 1976, of 4.5% are historically high.

Unfortunately, there is a strong surge in the trend toward worsening unemployment among government employees. Over the last four quarters the unemployment rate for government employees moved from a level of approximately 4.2% during the second, third and fourth quarters of 1975, upward to 4.4% in the first quarter of 1976, climbing to an historically high figure of 4.7% during the second quarter of 1976. At the same times, the official U.S. aggregate unemployment rate declined from 8.7% in the second quarter of 1975 downward to 8.5% by the fourth quarter of 1975, declining further to 7.4% by the second quarter of 1976.

The sharp deterioration between the first quarter of 1976 public employees unemployment rate of 4.4% and the second quarter figure of 4.7% shows that the true impact of the severe economic Recession in the general economy is still gaining momentum in the public sector. Further, the July 1976 surge to 7.8% in the aggregate economy unemployment rate suggests a continuing impetus toward further declines in public sector activity and a further deepening of the Recession.

Below is tabular information which shows the quarterly unemployment rate from 1974 through the second quarter of 1976.

TABLE I

	1974				1975				1976	
	I	II	III	IV	I	II	III	IV	I	II
Unemployment rate for Government employees, wage, and salary nonagricultural	2.7	3.1	2.9	3.3	3.6	4.2	4.1	4.2	4.4	4.7
Official U.S. unemployment rate	5.0	5.1	5.6	6.7	8.1	8.7	8.6	8.5	7.6	7.4

It is inevitable that the increased layoffs in the public sector reaching, as noted, highs well after crests in the private sector, diminished severely the quality and quantity of government services at the local level.

CONCLUSION

The nearly 40,000 local units of government and 50 states which have received revenue sharing have benefited greatly. In this case the public is likewise benefited. Even with revenue sharing many municipalities and states have been unable to maintain that current level of services. Clearly the extension and continuation of revenue sharing is necessary. Inflation continues steadily to diminish the purchasing power of federal revenue sharing funds.

Extension of revenue sharing will be a practical reiteration of the important function played by state and local governments in our federal system. At the same time, as noted, we do not urge grants "with no strings attached." Simply urge restrictions that will require the recipients to conform to sound national social policy, including the protection of rights of their public employees. With these recommended changes, we support extension and continuation of revenue sharing.

BUDGET STATUS OF SELECTED U.S. LOCAL GOVERNMENTS FOR 1975/76–1976/77

Local government	Deficit or surplus (millions)		Special measures applied	Budget costs (millions)		Source
	Percent of budget					
	1975/76	1976/77		1975/76	1976/77	
Bay Area Rapid Transit District		Originally −$14.7, now −$6.1.	Continuation of ½¢ sales tax; elimination of 3 percent raise for management; no new office jobs; no weekend service between Richmond and Daly City.		$77.1	San Francisco Chronicle: June 26, 1976.
Boston		Originally −$33, lowered to −$14.	600 layoffs in February; an additional 887 layoffs were averted when the municipal unions agreed to postpone a 10-percent pay increase from September 1976 to January 1977. State is paying 50-percent of Boston's subsidy to the MBTA. Property tax rise between $30 and $50 per $1,000; $1,500,000 cut from health and hospitals budget; snow removal cut $750,000.	$308.5, less school budget.	$281.9, less school budget.	Boston Globe: Apr. 21, 1976; Mar. 9, 1976; May 12, 1976; July 1, 1976.
Buffalo			228 laid off; work force down 1,500 since 1971 from 6,700 to 5,200; difficulty in selling bonds.			Los Angeles Times: July 12, 1976.
Baltimore School District		−$7.5	Layoffs of 351 1st yr teachers and 137 other personnel.	$265.5	$277.2	Baltimore Sun: June 24, 1976.
City of Baltimore			Layoffs in public works department total 131, 40-percent of which are from Sanitation (3.1 percent of force). 102 policeman to be laid off July 15, 1976.			Baltimore Sun: June 24, 1976; July 7, 1976.
Chicago Parks District		−$1.4	Raise in tax to $0.50 per $100		$70.6	Chicago Tribune: June 24, 1976.
Chicago Regional Transportation Authority.		−$37.5	Proposed cutbacks in service, fare raised		$210.2	Do.
Chicago School District	−$55		Early closing effectively balanced budget gap of $55.	$1,762		Do.
Chicago Metropolitan Sanitary District.			Proposed rise in tax to cover costs of new sewerage projects.			Do.
Cleveland Heights			70 employees planned to be laid off; 20 percent of work force. Hope to cut budget by $1,000,000 (13 fire, 14 police, 18 sanitation).			Cleveland Plain Dealer: July 8, 1976.
Detroit	−$44.3	Originally −$103	931 policemen of a force of 5,400 laid off; higher nuisance taxes; 241 firemen laid off in April; work force July 1974 of 23,677—work force June 1976 of 18,403; $46,000,000 other cutbacks.		$1,080	New York Times: July 1, 1976, July 2, 1976. Los Angeles Times: July 12, 1976.

Hartford		$3,000,000 tax increase; 100 layoffs of positions (additional layoffs to go first to individuals living outside 10-mi residency limit).		$171.4		Boston Globe: July 2, 1976.
Los Angeles City	Originally —$18.1 then —$2.1.	Budget balanced by rise in property tax to its maximum level of $3.09 per $100. Earlier layoffs restored.	$883	$983.5		Los Angeles Times: June 4, 1976; Apr. 26, 1976.
Los Angeles School District		Preliminary tax rate increase of $5.38 to $5.46 per $100.	$1,040	$1.130 preliminary		Los Angeles Times: June 4, 1976.
Los Angeles County		41¢ rise in property tax rise to $4.81 per $100	$3,100	$3.3		Los Angeles Times: May 4, 1976; June 24, 1976; July 18, 1976.
Los Angeles Board of Water and Power.		Rate increases anticipated in October of 7.5 percent for water and 5 percent for electricity.		$900.6 power; water 149.		Los Angeles Times: June 25, 1976.
Oakland, Calif		Elimination of 368 city jobs, 119 through layoffs	$90			Los Angeles Times: June 13, 1976.
Philadelphia	$82 deficit erased with tax increases.	Property taxes raised 29.3 percent; wage tax increased on 30.2 percent; 1-yr freeze on employee wages; 5¢ a barrel gasoline/oil tax; 1,083 layoffs scheduled; water and sewer rates raised 49.3 percent; 6,500 summer youth jobs eliminated.				Philadelphia Inquirer: May 28, 1976.
Philadelphia School District	$66.6 deficit built into new budget.	Budget adopted with deficit to avoid severe cuts; free transportation for 7th-, 8th-grade students eliminated.	$533	$600 (deficit included)		Do.
Pittsburgh	—$0.687	Restoration of 1-percent wage tax; 20-percent rise in water rates.	$120	$128		Pittsburgh Post Gazette: Dec. 31, 1975.
St. Louis City		Closing of 1 of 2 city municipal hospitals planned for September; 200 employees laid off.	$180	$189		St. Louis Post Dispatch: June 1, 1976; June 8, 1976; Apr. 7, 1976; May 18, 1976.
St. Louis School District	+$3.7	79¢ increase in school tax rate		$107		St. Louis Post Dispatch: June 3, 1976.
Washington, D.C.		Borrowed $55,000,000 from U.S. Treasury until full impact of various tax increases take effect. Income taxes increased 5 to 10 percent; auto registration fees raised to as high as $100; 4- to 7-percent increase of excise tax on new car sales; cigarette tax increase from 10¢ to 13¢ a pack; continuation in the 5-percent sales tax on utility bills for business and homeowners; an increase from 6 to 8 percent in sales tax on restaurant meals and hotel rooms.		$1,180		Washington Post: May 27, 1976; May 11, 1976; Mar. 1, 1976; Mar. 12, 1976.
South Eastern Pennsylvania Transportation Authority.		345 employees laid off; may lose $348,000,000 in Federal aid if certain construction projects are canceled.				Philadelphia Inquirer: June 25, 1976.
Southern California Rapid Transit District.	Was $6.8 before fare increase.	Fare increase from 25¢ to 35¢		$15.5 subsidy from Los Angeles Board of Suprevisors.		Los Angeles Times: June 18 1976.

SUMMARY OF RECENT COLLECTIVE BARGAINING AGREEMENTS IN MAJOR U.S. CITIES, APRIL TO JULY 1976—Continued

Local government employer: Union	Date settled, effective date, length of contract	Description of settlement	Fringe benefits	Source
San Diego:				
Police, POA, Teamsters	Length of contract not specified, assumed to be 1 yr., settled May 12, 1976.	Former maximum base was $12,648; new maximum base is $15,288; average wage increase was 7.5 percent.	City to increase contributions to police pension fund by 2 percent.	Los Angeles Times: May 13, 1976.
Fire, IAFF Local 145 (700)	Length of contract not specified, assumed to be 1 yr., settled May 12, 1976.	7 percent wage increase overall, for new maximum base of $14,298.	City to increase contributions to fire pension fund by 2.5 percent.	Do.
General Municipal Employees Association (white collar, 2,600).	1 yr., settled May 12, 1976	7.5 percent for about 2/3 of employees; 5 percent for about 1/3 of employees.	City to increase contributions to pension fund by 2 percent.	BNA, GERR: May 24, 1976.
Baltimore:				
General AFSCME 44 (10,000)	Settled July 8, 1976; retroactive July 1, 1976; 2-yr. contractt	Approximately 4 percent a year. Most local 44 members are hourly rated and earn $4/hr. Effective July 1, 1976—15¢/hr; effective Jan. 1, 1977—5¢/hr; effective July 1, 1978—15¢/hr; effective Jan. 1, 1978—1 percent reduction in pension contributions.	Experienced sanitation will be reclassified to a higher grade and will receive additional 13¢/hr July 1.	Baltimore Sun: July 8, 1976.
Police, FOB, Fire, IAFF 734 (1,900)	Settled July 1; 2-yr contract	8 percent in 5 steps, currently $13,500 to $14,580.		Baltimore Sun—July 2, 1976.
Milwaukee: IAFF Local 311 (260)	Retroactive to December 1975, 1-yr contract; settled early May.	5 percent retroactive to December 1975; 2 percent July 4, 1976, making salary $14,450.	Increase in health insurance payments	BNA, GERR.
Metropolitan Atlanta Rapid Transit Authority: ATU (1,900).	Retroactive to June 27, 1975; 3-yr contract	Current 5.74 base will go to 6.74 by the end of the contract. COLA payments in the 2d and 3d yr only.		GERR, BNA: Apr. 5, 1976.
Atlanta: General AFSCME (1,300)	1 yr, effective April 1	$208 raise for all employees who earn less than $16,913. $500 raise due July 7 only if 300 jobs are eliminated. Beginning salaries: Jailers, $8,190; laborers, $6,435; painters, $10,049; fire, $9,646; police, $10,465; janitors, $5,694.		
Portland, Oreg., Trimet Transit Authority: ATU Local 757 (1,100).	3-yr contract, effective April	Old hourly wage, $6.54; Apr. 1, 1976, $7; Mar. 31, 1977, $7.25; Mar. 31, 1978, $7.50; Mar. 31, 1979, $7.85. In addition: COLA adjustment 1¢=0.4 point change.	Greater employer health insurance cost	BNA, GERR: May 10, 1976.
Cincinnati: Police, FOB (1,175)	Settled early May, retroactive to Jan. 1 and expires Dec. 31, 1976.	7 percent pay raise, from $13,674 to $14,631.	Shift differential of 10¢/hr 6 p.m. to 11 p.m. and 20¢/hr 11 p.m. to 7 a.m. to be paid as a lump sum in early December.	Do.

Milwaukee: Public Employees Union Local 61 Sanitationmen Collectors only (650).	Retro to Jan. 1, 1975	8 percent retro for 1975 9 percent for calendar 1976.		BNA, GERR: May 17, 1976.
Philadelphia: Police, FOB (8,500)	1 yr, settled May 20, 1976, for fiscal year 1976/77.	June 30, 1976, $14,500; effective July 1, 1976, $14,500; effective Jan. 30, 1977, $15,383; expires June 30, 1977; total percent increase 6.1 percent.	Contribution to health and welfare fund increased.	Philadelphia Inquirer: May 21, 1976.
Massachusetts Transportation Authority: Transit, Boston Carmen's Union (ATU) (4,000).	2 yr; settled May 20, 1976; retroactive to Jan. 1, 1976.	No general wage increases for duration of contract and no COLA payments during 1976. However, the COLA payment for March had already been made. The "no layoffs" clause from the previous contract is extended through December 1977.		Boston Globe: May 21,
Milwaukee: Fire, IAFF Local 311 (260)	1 yr: settled May and retroactive to December 1975.	5 percent increase retro to December 1975; 2 percent pay increase July 4, 1976; December pay $14,196; July pay $14,480.	Health insurance premiums raised from $23 to $36.91 single; from $44 to $71.84 family coverage.	BNA, GERR: May 17, 1976.
Cincinnati: Police FOB	1 yr: settled in early May and retroactive to Jan. 1, 1976.	7 percent pay increase Dec. 31, 1975: base, $13,674; new base, $14,631.	Night shift differential: 10¢/hr—6 p.m. to 11 p.m.; 20¢/hr—11 p.m. to 7 a.m.	BNA, GERR: May 10, 1976.
Sacramento Regional Transit: Transit ATU, Local 256.	3 yr; settled in mid-May and retroactive to Apr. 1.	Base hourly wage: Current $6.48/hr; 1st yr $6.73/hr; 2d yr $6.88/hr; 3d yr $7.03/hr; quarterly COLA adjustments.	Employer contribution to health plan: Current $51.70/mo/emp.; 1st yr $66.70/mo/emp.; 2d yr $81.70/mo/emp.; 3d yr $101.70/mo/emp.	BNA, GERR: June 7, 1976.
Philadelphia: Fire Firefighters, Local 22	1 yr; settled May 21, 1976, for fiscal 1976/77.	Present base $14,022; Oct. 1, 1976, $14,442; Jan. 1, 1977, $14,875; expires June 30, 1977—Union claims this makes parity with police.	City to pay full cost of Blue Cross/Shield; life insurance raised from $8,000 to $10,000; retirees receive $6,000 life insurance (currently none); extra holiday added.	BNA, GERR: June 14, 1976.
San Francisco: Transit ATU, Local 225	1 yr; settled June 14, 1976; retroactive to April.	Hourly wage: Current $6.45; immediate increase $6.62; last quarter of contract $6.89.	Health insurance benefit increased 0.5 percent; dental plan established next Jan. 1.	Los Angeles Times: June 16, 1976.

BUILDING AND CONSTRUCTION TRADES DEPARTMENT,
AFL–CIO,
Washington, D.C., August 25, 1976.

Hon. RUSSELL B. LONG,
Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Building and Construction Trades Department takes particular pride in being able to work closely with Congress. We enjoy warm and productive relationships with many Senators and their staffs.

In that context, the Department, its seventeen affiliated International Unions and four million members strongly urge the Senate to apply the Davis-Bacon prevailing wage requirements to *all* state and local government construction projects, rather than only those involving 25 percent or more of revenue sharing funds. This is an amendment, as Congressman O'Hara stated during House debate of the same proposal, simply designed to close a loophole which has been used increasingly to circumvent the Davis-Bacon Act.

We have seen numerous cases where governmental units have limited their revenue sharing funds for construction projects to 23 or 24 percent to avoid Davis-Bacon coverage. In many cases these projects would have been 100 percent funded through Revenue Sharing. Instead, funds are being diverted into other areas such as education, fire protection, etc.; and local funds earmarked for these services are being transferred to construction. Manipulation of funds in this manner will increase if the 25 percent test is allowed to remain while government units become more sophisticated in their avoidance of labor standards.

The Davis-Bacon Act has long been used to protect the worker. We consider this law of utmost importance to all workers, and our legislative efforts have always been directed at protecting and strengthening this Act.

Unfortunately, the vote of the House on Congressman O'Hara's amendment has contributed to a weakening of the Davis-Bacon Act. It is clear that a large portion of revenue sharing money is going into construction; the Treasury Department estimates it as much as 10 percent of all annual disbursements. Because low wage contractors are receiving contracts containing revenue sharing monies, we expect a ripple effect—subverting the prevailing wages on other federally funded or assisted construction projects, since wage data from revenue sharing projects will be included in future wage surveys.

The effect of the House vote is to exploit the lowest person on the economic scale. I am sorry that so many in the Congress of the United States felt so comfortable deserting the American worker. I hope that the Senate will adopt a more concerned, responsible position, and close the loopholes to economic exploitation.

With kind regards, I am

Sincerely,

ROBERT A. GEORGINE,
President.

Senator GRAVEL. Our next group of witnesses is a group of witnesses consisting of Eugene Krasicky and Nathan Lewin.

STATEMENT OF EUGENE KRASICKY, GENERAL COUNSEL, UNITED STATES CATHOLIC CONFERENCE; ACCOMPANIED BY NATHAN LEWIN, ESQ., ON BEHALF OF AGUDATH ISRAEL OF AMERICA

Mr. KRASICKY. Mr. Chairman, my name is Eugene Krasicky. I am general counsel——

Senator GRAVEL. Well, I think if we could get everybody introduced. Well, OK, that's fine, you can all just stay right there.

Please go ahead.

Mr. KRASICKY. May I continue?

I am general counsel of the United States Catholic Conference. This is an organization of all Catholic bishops of the United States. In this regard I would like to make a statement for the record that Mr. Taylor does not speak for the Catholic Church in this country. The bishops speak only through the United States Catholic Conference.

We are very concerned about the form of the nondiscrimination provision that came out of the House, and we are particularly concerned about the inclusion of the term "religion" in the House bill, and we have several reasons for this concern.

We believe that the inclusion of the term "religion" in the bill is to write a new major civil rights act. Congress has had a long-established policy that recognizes the sensitivity of the question of religious discrimination. In 1964, when Congress established its historic policy of civil rights, it was careful to exclude religion from title VI. There is no mention of it in title VI. And yet, we have the mention of it in H.R. 13367, and the language that attempts to bridge the gulf does not do it, in my judgment. It creates problems, and I will try to explain them.

Section 9, as it was approved by the House, nullifies rather than preserves the careful religious distinctions that Congress has made in prior civil rights legislation, both in title VI of the Civil Rights Act of 1964, ttile VII of the Civil Rights Act of 1968, and title IX of the Educational Amendments of 1972.

Rather than enlarge the religious liberty, we believe it represents a threat to religious liberty. We do not think that the House of Representatives intended to create this threat. Indeed, the House sponsors of section 9 assure us they had no such intention. Nevertheless, our experience with church/State litigation convinces us that the threat exists, that it is real, and that it must be removed by a more precise wording of the bill.

The foundation of the threat is the failure of the language to distinguish sharply and unmistakably between unlawful religious discrimination by State governments and lawful religious preferences by churches and church-related organizations. I think this is so important I'd like to reiterate it again. The fundamental error in the House bill is that there is a failure to distinguish sharply and unmistakably between unlawful religious discrimination by State governments and lawful religious preferences by churches and church-related organizations. Congress has up to now recognized the legitimacy of the practice of religious preference in the existing civil rights legislation. It is not a form of unlawful religious discrimination; it is a constitutionally protected form of the free exercise of religion.

Now, I have described a threat, and it is a real threat, and I would like to show some examples of the threat. In many of our States, children are bused to our schools, to church-related, nonpublic schools along with public school children. Those programs are paid for with State funds in many instances, in some places with local funds. And many of our schools are filled only with children of the Catholic faith. Our concern is that the States and local units will say you discriminate on the basis of religion in admitting people to your school, and therefore we stand to lose Federal revenue sharing funds unless you abandon this so-called discrimination.

Another example——

Senator GRAVEL. May I ask a question?

If a child wants to be admitted to the school, they would admit him. He does not have to be a child of Catholic faith.

Mr. KRASICKY. If there is room for him. Now, the problem is in many areas of the country, our schools are filled.

Senator GRAVEL. But the discrimination by the school is not because of faith. It is because there is no space, and they give preference to Catholics, is that it?

Mr. KRASICKY. Yes; but the argument is made and will be made that we discriminate on the basis of religion because we prefer the admittance of our own children.

Now, in this regard, Senator, I would like to point out to you from my own personal experience as former assistant attorney general of a State, with many years of experience——

Senator GRAVEL. What State is that, sir?

Mr. KRASICKY. The State of Michigan. There will be pressure put on that officer not to endanger the receipt of Federal funds, and asking him to rule that there is discrimination. This is a real fear on our part.

Our concern is that our youngsters are going to be denied public welfare benefits because of the claim of religious discrimination.

Senator GRAVEL. What about if that pressure was removed, if the Federal funds were denied, if the amount of Federal funds denied the State were only those involved in that institution and not its whole program? There would then be no pressure of that kind.

Mr. KRASICKY. I do not think that is the answer, Senator, for this reason. Based upon my experience if you bring a lawsuit against the State, there is great concern about the precedent that is going to be established. Then there is going to be effort made to avoid the lawsuit if possible, and there will be pressure to avoid the lawsuit. So that is not going to be a remedy. Now, this is not only true in the school area, but it is also true in other areas, and I would cite another example.

Senator GRAVEL. Please.

Mr. KRASICKY. Among our institutions, we have homes for the aged, and we prefer the admittance to our own members. Many of them are overcrowded, there are waiting lists. The claim can be made that we discriminate on the basis of religion, and persons in those homes are going to be denied public welfare benefits, with the specter hanging over them that Federal revenue sharing funds will be withheld.

Now, the threat is real and the sponsors of the House bill assure us that they did not intend to do this, so the problem is to draft language that clearly spells this out.

Now, in our judgment they haven't done it. All they have done is to have a colloquy on the floor in which it was clearly stated that they did not intend to amend the Civil Rights Act of 1964.

Keep in mind the Civil Rights Act of 1964 does not have the word "religion" in it. Religion comes into this revenue-sharing bill.

Now, the language about interpreting it in accordance with certain titles, title VI, doesn't help us in the least, because title VI does not refer to religion. The only precedent in this area is a case involving the city of Chicago, as was mentioned earlier, in which the court said you cannot look to another act to restrict explicit language in the revenue-sharing bill. So the precedent on the books today will encourage attorneys general to say we are going to have to stop this or we are going to endanger Federal revenue sharing.

Now, we ask that the term "religion" be dropped. We ask that it be excised from the bill. We think that the Civil Rights Acts of 1964, 1968, and the Education Amendments of 1972 take care of the situa-

tion. If, as has been indicated earlier, there are problems with employment by governmental units because of religion, language can be written for that purpose without jeopardizing the right of our people to receive public welfare benefits, services through church-related institutions.

We believe the threat is real. We sincerely ask the Senate to make the necessary change.

Senator GRAVEL. How about if we modified section 9 of the House bill to explicitly state that religious preference by churches and church-related organizations is lawful and does not constitute unlawful religious discrimination?

How about if we put that in?

Mr. KRASICKY. That would be an improvement over the present language.

Senator GRAVEL. You are well aware that some people feel, that the 1964 act didn't go far enough.

Mr. KRASICKY. We understand that.

Senator GRAVEL. Your group and other groups have been fighting to get coverage under the 1964 act, or to cease discrimination against churches or people who express preferences in certain social activities, and to many it appears to be a step forward to get the word in there, without the negative effects that you defined.

Maybe we could define in the law what these negative effects would be and expunge it.

Mr. KRASICKY. The problem is a preference. It is.

Senator GRAVEL. So if we could restate that, we could solve that problem of preference. Then nobody would be able to use that as a hook for a suit.

Mr. KRASICKY. That is possible, sir.

Senator GRAVEL. And that certainly would accommodate your problem.

Mr. KRASICKY. Yes; it could have that possible effect.

Senator GRAVEL. Thank you.

Mr. KRASICKY. Before I finish, I would like to point out that Mr. Nathan Lewin is on the program with us, and he was here this morning, but he has been unable to return.

Senator GRAVEL. Do we have a statement for him?

Mr. KRASICKY. He has filed a statement, yes, to be considered.

Senator GRAVEL. It will be placed in the record following yours.

And are you acquainted with his statement at all? Have you had a chance to read it?

Mr. KRASICKY. Yes; I have read a first draft, although I did not see the final version.

Senator GRAVEL. It is making the same point that you are making.

Mr. KRASICKY. The version we saw was written only on schools.

Senator GRAVEL. As examples.

Mr. KRASICKY. No, he proposed some language that dealt with educational institutions only, and we have more institutions than they do, and therefore the language would be insufficient for us.

Senator GRAVEL. I think he might accept this language that I just read to you.

Mr. KRASICKY. Perhaps he might find it more satisfactory.

Senator GRAVEL. All right.

Nancy, do you want to go ahead?

[The prepared statements of Messrs. Krasicky and Lewin follow. Oral testimony continues on p. 165.]

STATEMENT OF EUGENE KRASICKY, GENERAL COUNSEL, UNITED STATES CATHOLIC CONFERENCE

SUMMARY

The nondiscrimination provision of the House version of the Revenue Sharing Bill (H.R. 13367) in its present form contains language which sharply deviates from Congressional policy. It specifically precludes any form of "religious discrimination" in connection with the Revenue Sharing program. In 1964, when the Congress established its historic policy of civil rights, it was careful to exclude religion from Title VI, indicating that certain types of religious activity did not constitute religious discrimination. Section 9 of H.R. 13367 nullifies rather than preserves the careful religious distinctions that Congress has made in prior civil rights legislation, both in Title VI of the Civil Rights Act of 1964, Title VII as amended, and Title IX of the Education Amendments of 1972.

In practical effect, H.R. 13367 is a major new civil rights bill. Rather than enlarge upon religious liberty, it endangers it. It endangers it particularly for those children who are participating in such state programs as school bus transportation, text books, visual aid, school lunches and other forms of constitutionally permissible aid to church related educational, charitable, and welfare organizations.

For example, a local state official might take the position that a parochial school limits admissions to the members of a parish and, therefore, deprives the children attending that school of school bus transportation to the extent that the transportation funds are in any way commingled with revenue sharing. A local official might also take the same position with respect to a Hebrew Day School participating in a state funded school lunch program, if such school limits education to Jews.

Admittedly, Section 9 of H.R. 13367 provides that its nondiscrimination provision shall be interpreted "in accordance with Titles II, III, IV, VI and VII of the Civil Rights Act." This was reaffirmed by Representative Barbara Jordan during debate on the floor of the House. However, the courts could readily take a stricter view, and have, in the case of *U.S. v. City of Chicago*, 395 F. Supp. 829. The defendant, City of Chicago, argued that the 122(b)(2) reference to Title VI contained in the 1972 Revenue Sharing Act had the effect of bringing restrictions applicable to Title VI into consideration in applying Section 122 of the Revenue Sharing Act. The Court noted:

"* * * that restriction in the Act of 1964 cannot be rendered as limiting the explicit language of 122(a) of the 1972 Revenue Sharing Act."

This result can be obviated by removing the term "religion" and thus preserving the integrity of the Civil Rights Law.

STATEMENT

The United States Catholic Conference is an agency of the Catholic Bishops of the United States. Its purpose is to unify and coordinate activities of the Catholic people of the United States in works of education, social welfare, immigrant aid, civic educations, communications and public affairs, all within the framework of Catholic principles and concern.

At the present time, the Catholic Church is operating 761 hospitals in the United States with approximately 170,000 beds. The school system is of comparable size containing 10,215 elementary and secondary schools. Additionally, there are 251 colleges sponsored by the Catholic Church. Our institutional system in the welfare field is likewise substantial.

As General Counsel of the United States Catholic Conference, we are gravely concerned about the lack of precision in Section 9 of H.R. 13367. That Section, which was designed to provide a new remedy for various types of discrimination by the state governments and their agencies, makes the cardinal mistake of treating religion as though it were exactly the same kind of innate, involuntary and immutable characteristics as race, color, sex or national origin. Constitu-

tionally, physically and psychologically, religion is an altogether different matter from race, color, sex or national origin. A civil rights remedy which lumps religion indiscriminately with these other four characteristics ignores our law, our traditions and the needs of our people.

In the Civil Right Act of 1964, the Civil Rights Act of 1968, and the Education Amendments of 1972 (Title IX, Sex Discrimination), Congress recognized the radical differences between religion and such inborn characteristics as race, color, sex and national origin. What the United States Catholic Conference asks this Committee to do is to preserve that sensitivity by rewriting Section 9 of H.R. 13367 so that the distinctions made in the civil rights legislation of 1964, 1968 and 1972 will be maintained. In short, Congressional policy is well established in this area. Deviation from it can only cause confusion and probably a deprivation of recognized rights.

The House sponsors of the present form of Section 9 say that its language already preserves these important distinctions with respect to religion. We respectfully disagree. Whatever the intent of the House sponsors was, their language in Section 9 gives us great cause for concern. This concern was conveyed to the House Government Operations Committee and to the House Leadership before the bill was passed. The response to our concern was contained in a colloquy on the floor but this does not adequately resolve the issue or eliminate the basis for confusion. In a Memorandum of Law, which we have already filed with this Committee, we have set forth the technical legal reasons for our concern. We will not repeat those reasons in detail here, but we do wish to emphasize at this point that the key phrase that causes our concern is "in accordance with" at the beginning of paragraph (A) in the Amendment that Section 9 would make to Section 122(a)(1) of Title 31. Given the way that Section 9 rewrites Section 122, the use of the phrase "in accordance with" in paragraph (A) is not sufficiently precise to dispel our fears that Section 9 would be used as another tool of discrimination against church-related agencies rather than as another tool against religious discrimination.

Throughout our national history, state governments have provided considerable financial assistance to the charitable and welfare activities of church and church-related institutions. To a lesser, but still substantial, extent, state governments have also provided financial assistance for the health, safety and secular education of children attending church-related schools. We see a potential threat in Section 9 of H.R. 13367 to the continuation of these traditions. We do not think that the House of Representatives intended to create this threat; indeed, the sponsors of Section 9 have assured the United States Catholic Conference that they had no such intention. Neverthless, our experience with church-state litigation convinces us that the threat exists and must be removed by a more precise wording of Section 9.

The foundation of the threat is the failure of Section 9 to distinguish sharply and unmistakably between unlawful religious discrimination by state governments and lawful religious preferences by churches and church-related organizations. Congress has already recognized the legitimacy of the practice of religious preference in the existing civil rights legislation. It is not a form of unlawful religious discrimination; it is a constitutionally protected form of the free exercise of religion.

If a state government were to prefer one religious faith over another in the delivery of welfare benefits or in its employment practices, the state would unquestionably be guilty of violating the Constitution. It is an altogether different matter, however, when the state decides to make its charitable, educational and welfare benefits available through both public and non-public (including church-related) institutions.

By making its benefits available to people in whatever institutions the people choose to receive them in, the state is manifesting the highest regard for the religious neutrality that the Constitution demands on both the state and federal governments. It is important, therefore, that Section 9 of H.R. 13367 not become law in its present form.

Our recommendation to this Committee is that it simply delete "religion" from the special remedial provisions of Section 9. The existing law of the 1972 Revenue Sharing Act as well as Title VI of the Civil Rights Act of 1964, does not contain the word "religion." Putting "religion" into Section 122, as though it were the same kind of thing as race, color, sex, or national origin, is bound to cause more trouble than progress. The special remedial provisions of Section 9, when used

as a weapon by those hostile to church-related institutions and their traditional role in American society, will cause considerable grief and expense to both the churches and the state governments.

Religious discrimination by the state or federal governments is already forbidden by the Constitution. The United States Catholic Conference wholeheartedly supports these prohibitions and does not wish to see them diminished by one jot or title. All we want to prevent is the expensive and time-consuming dispute that may well result if Section 9 of H.R. 13367 becomes law in its present form.

Good draftsmanship is of the essence of good law. On behalf of the United States Catholic Conference, we respectfully request the Committee to delete the word "religion" from Section 9 of H.R. 13367.

Thank you for the opportunity to appear before you, and for the careful consideration we know that you will give to this important matter.

Memorandum of Law on House Bill 13367 As to Revenue Sharing

I. INTRODUCTION

The 1976 House version of the Revenue Sharing Bill will gravely jeopardize many state programs of bus transportation, textbook loans, audio visual aid, school lunch programs, and other forms of constitutionally permissible aid to church related educational, charitable and welfare organizations, unless the legislation is limited to discrimination as set forth in Titles VI and VII of the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendments of 1972. The danger lies in H.R. 13367's simplistic approach to "religious discrimination." A literal reading of H.R. 13367 in its present form might well lead to the following results: (1) A Hebrew day school in New York City participating in a state funded school lunch program might jeopardize the entire revenue sharing entitlement of the State of New York if that school would provide preference to Jews over Catholics, Protestants, Moslems or nonbelievers. (2) A Baptist institution such as Baylor University receiving any state aid would jeopardize the revenue sharing entitlement of the State of Texas if any preference were given to Baptist students in admission. (3) A bus ride which Catholic elementary students might receive in Ohio would jeopardize the entire revenue sharing entitlement of the State of Ohio if that school maintained a waiting list which granted a preference to Catholics, or hired Catholic teachers to teach religion in such schools.

Confronted with the elaborate compliance mechanism set forth in the measure adopted by the House and with the impossibility of giving the assurances likely to be mandated under this legislation, many state and local administrators will doubtless seek to end all involvement with church-related institutions rather than risk the Draconian penalty of a forfeiture of revenue sharing entitlement.

The existing revenue sharing legislation does not prohibit "religious discrimination." The state and federal governments are, of course, forbidden by the Constitution itself to engage in religious discrimination. In the Civil Rights Act of 1964, as amended, Congress provided certain remedies for victims of religious discrimination. Congress, however, was careful to specify that certain types of religious activity did not constitute religious discrimination. Section 9 of H.R. 13367 nullifies rather than preserves the careful religious distinctions that Congress has made in prior civil rights legislation. In practical effect, H.R. 13367 is a major new civil rights bill. Its wording, however, is more likely to endanger than enlarge religious liberty.

The fundamental difficulty with the nondiscrimination provision of H.R. 13367 is that it does not make it absolutely clear that "religious discrimination" means only what it already means in existing civil rights legislation—nothing more and nothing less.

Although Section 9 of H.R. 13367 states that its prohibition of religious discrimination is to be interpreted "in accordance with" existing civil rights law, as this legal memorandum demonstrates, the phrase "in accordance with" is no guarantee that the new amendments will be consistently interpreted by the courts and administrative agencies as simply extending existing law to the field of revenue sharing. Indeed, the existing decisions of the courts explicated below offer no support that the courts or administrative agencies will give such an interpretation.

The problem is particularly acute in the area of religion, because it is much more difficult to draw the line between legitimate religious practice and illegitimate religious discrimination than it is to define racial or sexual discrimination. As the Supreme Court pointed out in *Norwood* v. *Harrison*, 413 U.S. 455 (1973), no one has a right to practice racial discrimination. But everyone has the right to the free exercise of religion. Accordingly, the government may lend secular textbooks to children attending parochial schools, but it may not lend such books to children attending white academies. Similarly, in its most recent church-state decision, the Court held that a state may make noncategorical grants for secular educational purposes to a church-related college with a student body and a faculty that was predominantly Catholic. *Roemer* v. *Board of Public Works*, —— U.S. ——, decided June 21, 1976.

Existing civil rights law carefully protects many traditional religious practices by church organizations. This protection is entirely consistent with the constitutional prohibition against religious discrimination by government. Indeed, absent this protection, the government clearly would be discriminating against churches, church-related organizations, their members, and the public that these institutions serve. The only way that the government can avoid religious discrimination is by extending its general welfare benefits to all persons regardless of their religion or lack of it (*Everson* v. *Board of Education*, 330 U.S. 1, —— (1947); emphasis in original). As a practical matter, this means that government must permit individuals to elect to receive those benefits in church-related institutions, if the individuals so choose. The government may legitimately suppress racial and sexual discrimination. It cannot suppress religious preference.

The addition of a prohibition against religious discrimination to the Revenue Sharing Law (31 U.S.C. 1221) would not cause such great concern if the prohibition were properly drafted. Section 9 of H.R. 13367, however, is very badly drafted with respect to religious discrimination. As the accompanying memorandum shows, the language of section 9 creates a distinct and grave danger that state officials, rather than run the risk of protracted litigation about the meaning of section 9, will terminate any state assistance to church-related charitable, educational and welfare organizations that give a preference to their own members in services or employment. Such preferences are a traditional part of religious life in America, and are protected by existing civil rights law.

The Constitution already prohibits religions discrimination by the state and federal governments. No need has been demonstrated to include religious discrimination in the special remedial provisions of section 9. Such discrimination was not included by Congress in the special remedial provisions of Title VI of the Civil Rights Act of 1964.

We are totally opposed to religious discrimination by government. We are also totally opposed to laws that, under the guise of prohibiting such discrimination, actually endanger the right of the churches and church-related organizations to exercise their traditional freedoms.

II. PERTINENT ASPECTS OF THE LEGISLATIVE HISTORY OF THE HOUSE VERSION

The antidiscrimination provision was adopted by the House Committee as an amendment offered by Representatives Drinan and Jordan. Representative Koch raised a question in a colloquy with Representative Jordan:

"Mr. KOCH. Mr. Chairman, I received, as I think a number of Members did, a letter from the Rev. Msgr. James J. Murray, executive director of the Catholic Charities of the Archdiocese of New York, in which he raises a question with respect to a provision in the bill and how it would affect church-related schools. That question arises from language that the gentlewoman from Texas (Ms. Jordan) placed in the bill. I have talked with the gentlewoman from Texas about it.

I would like to have the gentlewoman's comments now, so as to reassure those who have raised the question, as the gentlewoman has reassured me, that their rights are not in any way impaired.

The letter I received raising the issue is as follows:

CATHOLIC CHARITIES
OF THE ARCHDIOCESE OF NEW YORK,
New York, N.Y., June 4, 1976.

Re: antidiscrimination provisions in revenue sharing—H.R. 13367.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: The House Committee on Government Operations has reported H.R. 13367 to continue the Federal Revenue Sharing Program in 1977. The bill as reported includes a new non-discrimination provision (Sec. 122) which, among other changes, adds the word 'religion'. This word presently is not contained in either Title VI of the Civil Rights Act of 1964 or the present non-discrimination section of the Revenue Sharing Act.

The effect of these provisions would be substantial in New York. Many church-related schools, homes for the aged and child care institutions in New York participate in federal, state and local health, education and welfare programs. Title VI discrimination prohibitions on racial and national origin have been applied to all church-related institutions participatng in health, education and welfare programs. Title VI of the Civil Rights Act, however, permits these church-related schools and institutions to grant preference on the basis of religion. This would be prohibited under H.R. 13367 as reported.

I support application of the existing provisions of Federal non-discrimination laws to state or local government programs and activities, whether or not financed by Revenue Sharing funds. However, I oppose adding a new non-discrimination requirement on the ground of 'religion' to existing non-discrimination laws regarding federally assisted programs and activities.

I urge your strong support for a technical amendment during floor consideration of H.R. 13367 to make clear its intent and to limit the non-discrimination restrictions on state and local programs and activities to the same non-discrimination restrictions as now apply to Federal programs and activities under Title VI of the Civil Rights Act.

Sincerely yours,

Rev. Msgr. JAMES J. MURRAY,
Executive Director.

MS. JORDAN. I thank the gentleman for yielding.

Let it be well understood that the addition of the category 'religion' in the antidiscrimination bill under the general revenue-sharing law were (sic) not intended are (sic) not intended, should not be interpreted as an amendment to title 6 of the 1964 Civil Rights Act. The phrase 'religion' in terms of an area where discrimination is prohibited is used in only three civil rights statutes. Title 6 is not one of those three.

When this bill, general revenue sharing, says that the term 'religion' is to be interpreted in accordance with already existing civil rights laws, that means, ipso facto, those civil rights laws in which the term 'religion' is already used. So, since the word 'religion' is not in title 6, we cannot inferentially amend a major title of civil rights law by simply writing antidiscrimination in an act called "general revenue sharing."

The response of Representative Jordan to Representative Koch's inquiry does not cure the inherent defect of the statutory language in H.R. 13367. The effect of the Revenue Sharing Act as passed by the House is to establish a dual standard of compliance. For instance, Federal monies received through the various categorical grant programs are covered by provision of Title VI of the 1964 Civil Rights Act, as amended. Federal, State and local authorities are under no obligation to police "religious discrimination" under Title VI.

Federal monies which might be received through the revenue sharing program as passed by the House are governed by the provisions of the antidiscrimination section of that bill. State and local governments are obligated to police religious discrimination under the terms of the House bill.

Matters are further complicated by a provision in the House bill which places upon the state or local unit of government the burden to demonstrate by clear and convincing evidence that any of its programs or activities where the recipient discriminates is not funded by revenue sharing. If discrimination is

interpreted to mean all religious preferences in all contexts, any involvement between a state and local government and a church-related institution is suspect and it is up to the state or local unit to prove that any funds provided are not revenue sharing monies.

The precise impact of this legislation upon our institutions is impossible to calculate. We are not in a position to survey all of the state and local government programs throughout the 50 states. We are deeply concerned how the language of section 9 will be interpreted by the various federal and state agencies or by the federal courts. We do, however, know that there are waiting lists for many of our institutions and that a number of these institutions attempt to serve Catholics before serving others. Many schools, for example, provide preferential admission to Catholics. Many of our schools prefer Catholic over non-Catholic teachers. These practices have been protected by Congress in all prior civil rights legislation. They should continue to be protected, because they are a very important part of religious freedom. Unfortunately, the language of section 9 raises grave doubts whether that protection is to continue.

III. THE LEGAL EFFECT OF THE REFERENCE TO CIVIL RIGHTS IN OTHER STATUTES

Section 9 of H.R. 13367 provides that its nondiscrimination provision shall be interpreted "in accordance with Titles II, III, IV, VI, and VII of the Civil Rights Act." Representative Barbara Jordan has indicated that it is her understanding that:

". . . the term 'religion' is to be interpreted in accordance with already existing civil rights laws, that means, ipso facto, those civil rights laws in which the term 'religion' is already used."

This observation does not resolve the difficulty. It leaves a most ambiguous situation.

In the case of *United States* v. *City of Chicago*, 395 F. Supp. 329 (N.D. Ill. 1975), the defendant, City of Chicago, argued that the 122(b)(2) reference to Title VI contained in the 1972 Revenue Sharing Act, had the effect of bringing restrictions applicable to Title VI into consideration in application of Section 122 of the Revenue Sharing Act. The court noted:

". . . that restriction in the Act of 1964 cannot be regarded as limiting the explicit language of 122(a) of the 1972 Revenue Sharing Act. That no person shall 'be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Act.' The reference to Title VI of the Revenue Sharing Act was to incorporate or suggest the utilization of the administration procedure provided by Title VI to police the use to which federal revenue sharing funds were being put."

Although the 1976 House version of Revenue Sharing does not contain the 1972 language, it is clear that the language contained in subsections (A), (B) and (C) of section 9 of H.R. 13367 replaces the language of Section 122(b)(2) of the 1972 Act. The interpretation given to the Title VI references in the 1972 Act indicates that reference to other civil rights acts merely picks up the various tests and administrative procedures outlined in cases dealing with those titles.

In *Alvarez-Ugarte* v. *City of New York*, 391 F. Supp. 1223, a discrimination allegation was made under 31 U.S. Code 1242(a), and no allegations were made under 42 U.S.C. 2000(d). The District Court treated the matter as a Title VII complaint (employment) and invoked the precedent of *Griggs* v. *Duke Power*, 401 U.S. 424 in establishing the standards to be met by defendants.

It seems likely, then, that despite Rep. Jordan's statement, section 9 of H.R. 13367 will not be read as including all the omissions, limitations and exceptions of Title VI and other civil rights legislation. Rather, the courts and administrative agencies may be expected to interpret the nondiscrimination provision of section 9, creating separate and additional standards of compliance with respect to nondiscrimination, and as extending the remedies spelled out in prior legislation to these new prohibitions.

The inclusion of the word "religion" in the nondiscrimination provision will create a different standard of compliance for the state and local governments utilizing revenue sharing money as opposed to the standards applicable to the federal government or state and local governments utilizing funds through categorical grants. *United States* v. *Chicago*, supra, and *Alvarez-Ugarte* v. *City of New York*, supra, indicated that the courts will not view the language regarding

civil rights acts presently contained in section 9 of H.R. 13367 as being a limit or restriction on the types of discrimination prohibited.

IV. OPERATION OF THE COMBINED EFFECT OF THE ELIMINATION OF THE MATCHING PROHIBITION AND THE SHIFTING OF THE BURDEN OF PROOF TO THE STATE AND LOCAL GOVERNMENTS

Nowhere do Congressional intent and the realities of the legislation as passed by the House come into greater conflict than in H.R. 13367's elimination of the prohibition against the use of revenue sharing funds for federal matching purposes. Under Title VI, the obligations of both state ad federal governments to police discrimination do not require these governments to police programs where there is the possibility of religious preference. It was and is a policy under Title VI that there shall be no affirmative duty upon government to police in this area. The elimination of the matching funds prohibition coupled with the burden of proof requirement of the House version of H.R. 13367 require that Title VI monies involved in a state matching program be policed for religious discrimination. Section 9 amends 31 U.S. C. § 122 to require that state and local governments prove "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, directly or indirectly, with funds made available under subtitle A". (New section 122(a)(2); emphasis added.)

Thus, an extraordinary burden is placed upon the state to demonstrate that any monies which it uses in a discriminatory program are not revenue sharing funds.

Under the 1972 bill revenue sharing restrictions did not apply to state or local matching funds. Just the opposite is true under the present House Bill. The presumption is that any funds used by the state are revenue sharing funds and the state is then under an affirmative burden to demonstrate that the funds are not revenue sharing funds. The shift of the burden onto the states and the elimination of the matching restriction has the combined effect of imposing different compliance standards than the compliance standards of Title VI. Under the House provisions even categorical grants, presently subject to only Title VI restrictions, are subject to a legal presumption that they are controlled by the compliance requisites of the 1976 Revenue Sharing Act.

It is evident then, that section 9 of H.R. 13367 is at loggerheads with the policy objectives of Title VI. In this instance the combined effect of the elimination of the matching prohibition and the shift of the burden of proof to the states and local government is to alter the compliance requirements so carefully constructed by Title VI of the Civil Rights Act of 1964.

V. THE EFFECT OF THE DISPLACEMENT THEORY IN THE PRESENT HOUSE BILL

The sweeping effect of the amendments adopted by the House is made more manifest when one examines the so-called displacement theory. A number of commentators have argued that the antidiscrimination provision must ultimately work against any discrimination prohibited, regardless of the nexus between the funds and the act of discrimination.

The theory used to void the nexus requirement is that the funds being used are federal monies, at least to the extent that federal monies have displaced state monies and thereby freed state money used in the pending program. The elimination of the matching prohibition and the shifting of the burden of proof to the states or local government would strengthen the displacement argument. Any nexus requirement would obviously be diminished to the extent that the money becomes a "fungible item." The more funds become fungible, the more attractive and logical the displacement doctrine becomes. In *Matheus* v. *Massell*, 356 F. Supp. 291 (N.D. Georgia 1973), the District Court was confronted by the defendants' claim that the revenue sharing money was fungible:

"It is their [defendants'] position that the Revenue Sharing Act imposes restrictions only on the specific funds which are received by operation of the Act They contend that the Act imposes no restrictions upon the City's general funds which are freed up by the influx of Revenue Sharing funds. Thus in the present case they state that $10.5 million of general funds would have been used for the payment of firemen's salaries, but for the receipt of Revenue Sharing funds. Defendants contend that the use of the Revenue Sharing funds for fire-

men's salaries allows them to make any use whatsoever of the general funds which would otherwise have been put to such use."

The court held that the priority categories of the 1972 Act prevented the adoption of defendants' theory:

"The court has further determined that it was the intent of Congress that local governments be permitted to expend federal Revenue Sharing funds only on priority expenditures as defined in § 103(a)."

Thus, it was the priority feature which prevented the adoption of the displacement theory. That feature of the 1972 Act has been removed from the measure adopted by the House.

VI. ADMINISTRATIVE REGULATIONS AND THEIR NEGATIVE IMPACT UPON CHURCH-RELATED INSTITUTIONS

From the foregoing, it can be seen that the effect of the present language of the Revenue Sharing Act would be to superimpose another and very ill-defined compliance requirement on top of other civil rights acts. The scope of this overlay is further revealed by an examination of the regulations which accompanied the 1972 Revenue Sharing Act. 31 CFR Section 51.32 contains the regulations under the antidiscrimination provision of the 1972 Act. In addition to the provisions of subsections (a) and (b)(1) dealing with the types of practices to be avoided, subsection (c) 51.32 requires that assurances be given by the governor of the state or the chief executive officer of the unit of local government that "programs or activities funded in whole or in part by entitlement funds will be conducted in compliance with the requirements of the section. Such assurances shall be in the form prescribed by the Secretary." The effect of a similar regulation under the present language would be to require state officials to give assurances that "religious discrimination" would not be involved in any of the programs they funded. But nowhere does H.R. 13367 make it absolutely clear that the religious practices protected by existing civil rights legislation do not constitute "discrimination".

VII. NEGATIVE IMPACT OF HOUSE BILL ON EMPLOYMENT BY CHURCH-RELATED INSTITUTIONS

The negative impact of the 1976 House version of the Revenue Sharing Act upon the application of the 1964 Civil Rights Act, as amended, is clearly seen by reviewing the employment provisions of that Act. Title VII provides inter alia, that discrimination in employment practices because of an individual's race, color, religion, sex or national origin, shall be unlawful. Title VII, however, expressly exempts religious corporations, associations, educational institutions and societies with respect to the employment of individuals of a particular religion to perform the work connected with the carrying on of these organizations' activities.

Section 2000(e)(2), Subsection (e)-2, provides:

"It shall not be an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion."

The effect of the Title VII provisions is to prohibit discrimination on a religious basis in a nonsectarian context. The statute clearly is not applicable to sectarian institutions in the conduct of their activities. As we have noted earlier, the antidiscrimination provision of H.R. 13367 undoubtedly will be read by many states and local governments to establish a distinct, separate standard of compliance set over and against the various Civil Rights Acts. The House antidiscrimination provision provides a prohibition against discrimination based on religion but does not clearly provide the exemptions found in Title VII.

Under Title VII it is lawful for an employer to require that the principal of an elementary or secondary school be of the same religious denomination as the sponsoring institution. However, under section 9 of H.R. 13367, such an employ-

ment practice might be held violative of the antidiscrimination provisions and therefore jeopardize Revenue Sharing funds.

Let us take an example of an Hebrew Day School in New York City which has a long-standing employment practice of requiring the principal of the institution to be a practicing Jew. Under Title VII no discrimination allegation could be levied against the institution. However, under the antidiscrimination provision of H.R. 13367, a strong argument can be made that such an employment practice is patently illegal. A complainant would, by virtue of section 9, pick up the various standards for adjudicating the complaint, including the *Griggs* v. *Duke*, supra, tests. The policy itself is prima facie evidence of discrimination and the state or governmental unit must then prove by clear and convincing evidence that none of the funds it received through Revenue Sharing were involved in a program in which the school or other governmental unit participated. If, for instance, the school participates in a school lunch program or a milk program, then the state would have the burden of proving that the funds used there did not come from Revenue Sharing. Litigation would be further complicated if the court adopted the displacement theory. Given the preference in favor of Jews, the application of the displacement theory or a ruling that Revenue Sharing funds were used in that program would result in the termination of the entire funding entitlement of the governmental unit receiving the Revenue Sharing funds. Rather than risk such a loss of funds, many state and local government officials will refuse to disburse monies to church-related institutions.

VII. THE EFFECT OF OPERATION OF THE 1976 AMENDMENT UPON TITLE IX OF THE EDUCATION ACT

Under the requirements of 20 USC Section 1681, sex discrimination in education is outlawed, except in admission policies in the elementary and secondary level. Moreover, under Section (a) (3) of Section 1681, the statute states:

"This Section shall not apply to any educational institution which is controlled by a religious organization, if the application of this subsection would not be consistent with the religious tenents of such organization."

Regulations under 20 CFR 86.12 elaborate upon the proviso.

The antidiscrimination provision of H.R. 13367 imposes a separate distinct compliance standard. It contains no proviso similar to 20 USC 1681(a)(3). Thus, the states' obligation to enforce the prohibition against discrimination by sex will operate without effect of the (a)(3) restriction of Section 1681. Additionally, where there is discrimination based on sex, and revenue sharing funds are used to match federal funds, the net effect will, by virtue of the overlay of the revenue sharing restrictions, be that programs operating under Title IX will be held to a standard of compliance different from that required under the terms of 20 USC 1681.

The Congressional intent of passing 20 USC 1681(a)(3) will thus be bypassed because of the presumption that any state funds used in the matching are revenue sharing funds. The exemption obtained in 20 USC 1681(a)(3) will have little operational value, should the House Bill become law.

STATEMENT OF NATHAN LEWIN ON BEHALF OF AGUDATH ISRAEL OF AMERICA

Mr. Chairman, Members of the Committee, my name is Nathan Lewin. I am a Washington attorney who is appearing before you today, *pro bono publico*, on behalf of the Agudath Israel of America, to testify with regard to one word in the proposed 1976 Revenue Sharing Bill. Specifically, our concern—and the subject of my testimony—is the amendment to Section 122 of the Revenue Sharing Act which would add to its non-discrimination provision a prohibition against discrimination on account of "religion."

Before turning to our substantive problem, permit me to give you just a little bit more personal and organizational background. In addition to practicing law in the District of Columbia, I am an Adjunct Professor of Constitutional Law at Georgetown Law School and was a Visiting Professor at the Harvard Law School, teaching Constitutional Law, Criminal Law and Appellate Advocacy in 1974–75. I served, prior to 1969, as an Assistant to the Solicitor General of the United States and as a Deputy Assistant Attorney General in the Civil Rights Division of the United States Department of Justice. Since entering the private

sector, I have also been writing from time to time on legal and constitutional subjects, particularly in The New Republic, where I serve as a contributing editor. My interest in questions of religious discrimination and particularly in constitutional issues related to such questions has also involved me as a Vice President of the National Jewish Commission on Law and Public Affairs ("COLPA"), in which capacity I have filed many amicus briefs in the Supreme Court of the United States and appeared on behalf of plaintiffs and amici in other courts. The organization which I am representing today—Agudath Israel of America—is a nationwide one which speaks for the interests of a broad centrist constituency of the Orthodox Jewish community of the United States. Through its various divisions—which include monthly English and Yiddish publications, as well as youth groups, summer camps, senior citizens' programs, manpower development programs, vocational education projects, Soviet Jewry agencies and adult and youth education programs—Agudath Israel of America has served the Orthodox Jewish Community of this country for more than half a century in many diverse ways.

We share with the United States Catholic Conference a concern about the effect of a flat prohibition against religious discrimination in the Revenue Sharing Bill. Such a prohibition could be read, in our view, to foreclose state-funded school lunch programs in Jewish Day Schools or constitutionally permissible school transportation arrangements for children attending such schools. By its very nature, a Jewish religious school is limited to Jewish students, and while this restriction on admission may be viewed, in one sense, as religious discrimination, it has consistently been recognized as a proper and permissible means of carrying out a religious function of a religious school.

On the other hand, we would be the last to condone religious discrimination in any area where religion is not an intrinsic part of the program or activity which receives state funding. Those who drafted and proposed the language which is now in HR 13367 were surely seeking to protect religious minorities such as our own against unwarranted and unjustified forms of exclusion or discrimination, and we join in that objective.

We believe that the best way to satisfy both legitimate objectives is to add the following language to Section 122(a)(1)(A), as it now appears in Section 9(a) of the Bill:

"*Provided* That an educational institution which is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, society or organization shall not be deemed to be discriminating on account of religion or sex if it engages in any practice in accordance with the religious tenets of such religion or religious corporation, association, society or organization."

This language is modeled on the exception to Title VII in Section 703(e)(2) of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–2(e)(2) and on Section 901(a)(3) of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a)(3). It provides, just as do those provisions in present law, that an educational institution may impose admission or employment standards in various aspects of its operations on the basis of either religion or sex if such standards are part of its religious tenets. In this way, a narrow exception to the prohibition against religious discrimination is carved out for those rare situations where what might otherwise appear to be impermissible discrimination is really justified by a religious requirement.

Thank you.

STATEMENT OF NANCY EBE, WASHINGTON REPRESENTATIVE, SOUTHERN REGIONAL COUNCIL; ACCOMPANIED BY RAYMOND BROWN AND MS. SUSAN PERRY

Ms. EBE. Good afternoon, Senator. My name is Nancy Ebe, and I am the Washington representative of the southern governmental monitoring project of the Southern Regional Council, and accompanying me today is Mr. Ray Brown and Ms. Susan Perry. Ms. Perry is staff counsel for the project.

We would like to thank you very much for inviting us to testify here today on this important legislation that is before you, and we are sorry that we were scheduled so late that more of the Senators couldn't be here to hear the important things that we have to say about discrimination and citizen participation in the revenue-sharing program.

I would like to address myself today to two issues: first, citizen participation, and the second, discrimination in revenue sharing, and in particular to urge firmer antidiscrimination requirements and greater citizen participation in the general revenue-sharing program.

My testimony will be based on the information gathered by the southern governmental monitoring project of the Southern Regional Council, which monitored 60 cities in the South over a 2-year period. We have compiled this information in two books, one on "citizen participation in revenue sharing: A Report from the South;" and the second, "Discrimination in General Revenue Sharing in the South," and we would like to request that these be made a part of the record.

[The documents referred to may be found in the files of the committee.]

Ms. EBE. Now, the first issue I would like to speak about today is citizen participation. In our monitoring of these 60 cities in the South, we found only a very low level of citizen involvement, and one of the reasons—and this is no new news. The General Accounting Office's report on revenue sharing also came to this conclusion, and we found that one of the reasons for this is a general lack of information about revenue sharing. For example, I was in Jacksonville, Fla. monitoring revenue sharing last summer, and I asked one of the reporters who covered city hall where the revenue-sharing money went, and he said, well, most of it went to recreation. In truth, a very small percentage of the money went to recreation.

Furthermore, I asked a black man in the community how much money did Jacksonville get in revenue sharing. The figure he gave me was a tenth of the ultimate amount that Jacksonville had received.

This was not an isolated instance.

Senator GRAVEL. Where did it go?

Ms. EBE. The bulk of the money went to the fire and police departments which had EEOC complaints pending against them. The local chapter of the NAACP filed a complaint with the Office of Revenue Sharing the middle of last summer, and in December they received a report from ORS that something was going to be done about it, and from our last communication with Jacksonville, nothing has been done.

There is a general problem of lack of information, and these examples I cited in Jacksonville, included civic leaders, and a reporter who was someone who should be knowledgeable in this area. If these people don't know what is going on with revenue sharing, we find it difficult to believe that the run-of-the-mill citizen is going to know where this money is being spent. And this problem has been made more severe by the frequent attitude of local officials. For example, in Wake County, N.C., one of our investigators asked a local official how he responded to questions about revenue sharing, and he said, well, when anyone asks me, I simply tell them the money has already been allocated.

Not only is there just a problem of lack of information, but our investigations have found that the existence of revenue sharing dimin-

ishes existing citizen participation, and the reason for this is that revenue sharing enables localities not to have to raise taxes or hold referendums, both of which necessitate citizen participation and citizen input.

For example, in Baton Rouge, La. and in Chatham County, Ga., revenue-sharing funds were used for projects which the voters had already turned down one referendum, and if the local officials had to use the referendum and tax increase procedures, they would have to be involved in some sort of communication with the citizens.

Now, we think both of these points about citizen participation fly in the face of what we were all told about the theoretical foundation of new federalism and general revenue sharing.

We were all told in 1972 that this money was going to be closer to the people, that it was going to be spent in accord with the people's wishes, and yet our investigations found that this is simply not true, that citizens have a very low input into the decisions about how this money is going to be spent.

We have several recommendations that we think will help to remedy this problem. The first series of recommendations relates to the planned and actual use reports. This morning I believe it was Senator Nelson that was saying that he felt that the recommendations in the House bill were gobbledygook. I would like to assert that it is my feeling, based on our research that the present planned use report and actual use reports are gobbledygook because they tell citizens absolutely nothing.

You look in the papers and they say, public safety, x amount of dollars. You have no way of knowing what that entails. All you know is, the citizens only know it has something to do with public safety.

What we would like to recommend is that there would be a line item statement, an explanation of how the money is being used.

We further would recommend that each planned use report include a statement of the time, place, and manner in which citizens can participate and make their views on planned revenue-sharing allocations known, and that each actual use report explain any changes between the planned and actual uses.

Further, we recommend that public access provisions, similar to those in the Freedom of Information Act, be made applicable to financial and other data relating to revenue sharing so that people will be able to have access to this information.

For example, again getting back to Jacksonville, the local chapter of the NAACP told me they had been trying for a year to find out exactly how revenue-sharing monies were being spent, and if we have this sort of procedure for these use reports, it wouldn't be any problem.

Now, for example, Dade County—Miami, Fla.—currently has this procedure, and it has not proved terribly burdensome for them.

Our second recommendation in regards to citizen participation relates to hearings. We recommend that each recipient jurisdiction, at a minimum, hold at least two public hearings, one prior to submission of the planned use report, and one prior to adoption of the revenue-sharing budget.

Now, it is true that many local officials say that, well, we really don't need these sort of inputs because through informal means we know

what citizens want. Well, we have a problem with that argument, and we feel that it is common knowledge there are groups which traditionally have not felt they had access to these informal means of communications. For example, to name just three areas that expressed this concern. In New Bern, N.C., we interviewed blacks, in MacAllen, Tex., Latinos, and in Spartanburg, S.C., women, all of whom expressed their dismay at the official unresponsiveness to their potential input into revenue sharing. And further, in Memphis, Tenn., a local urban league official told us that he thought that the local government was less responsive after the general revenue sharing than it had been before.

Now, I think this leads into the next area I would like to talk about, which is discrimination. I think the lack of information problem relates to the discrimination. For example, in Raleigh, N.C., the police and fire departments were receiving a great deal of revenue-sharing funds, and a local black group there filed an EEOC complaint, but they were unaware that they had a remedy under the revenue-sharing bill.

And I think our report documents countless examples of discrimination, but one particular problem I would like to focus on is subcontractors and contractors who are not complying with the civil rights requirements. For example, in Charleston County, S.C., we found that there was no effort being made to insure that the subcontractors were——

Senator GRAVEL. May I ask a question?

Ms. EBE. Yes, sir.

Senator GRAVEL. You were here and you heard the colloquy that we had this morning?

Ms. EBE. Yes.

Senator GRAVEL. Suppose we had a provision in here saying that only those moneys in litigation were involved. Suppose so much money went to the police department and they had a reason to say that there was discrimination and therefore you filed suit. Only those moneys would be impounded and not all the moneys that the community received.

How would that——

Ms. EBE. Well, our recommendation is that all moneys be suspended upon a finding of discrimination.

Senator GRAVEL. No; I am talking about the litigation in court. You would be holding up all of the money that that community would receive by going to court. Now, obviously you are an aggrieved party, you feel it is a just grievance, but suppose that your grievance is not just. What you have done is you have punished that community in the acquisition of those moneys all the way across the board, even though there was no proof of discrimination.

Ms. EBE. Well, Sue, our staff counsel is more familiar with the legal aspects.

Ms. PERRY. Senator, while I am sympathetic to the issue that you raise, I think your question and the way that you pose it fails to take into consideration the fungibility aspect of revenue-sharing funds.

Senator GRAVEL. Fungibility?

Ms. PERRY. The fungibility aspects, where certain funds are placed in one particular department in a jurisdiction. This in turn frees up local money that can be used in another department, which may not be a discriminatory agency. I think later on in the testimony that Nancy is going to make, she is going to recommend something that we support, which is jurisdictionwide coverage for the civil rights aspects of the bill.

I think that also the House bill has a recommendation that where there is an allegation of discrimination, that the jurisdiction has the burden of proving that in fact no discrimination exists. I think the whole point here is to try to identify a speedy remedy. We don't want to withhold revenue-sharing funds where there isn't any problems. Some of the people, the constituency that we speak for, need these moneys desperately. Many, there are places, in black communities in the South, where the black neighborhoods still do not have paved roads or drainage or sewage facilities.

So what we are saying is we are looking for an efficient, quick remedy, and I think that the threat, much more so than the actual withholding of money, would work to secure compliance at the local level.

Senator GRAVEL. But if you do have a malcontent in the community who does want to start some suits, he can really tie this up into knots; can he not?

Ms. PERRY. I think litigation is a mechanism that does tie up money, and it is for that reason that we look for agency compliance as a remedy which is much more quick and efficient if used effectively.

At this point the Office of Revenue Sharing has failed to take advantage of the opportunities that they have to speed up compliance efforts. I know that as far as the backlog in the courts, I would not be in favor of a first effort to file suit to solve these problems.

Senator GRAVEL. And the agency compliance, if they haven't done a good job right now, then you feel by adding to the language that the House now has, they would do a better agency job?

Ms. PERRY. I think the timetables we provide in here, Senator, there would be certain timetables set up in terms of making an onsite investigation, in terms of making a notice to a recipient jurisdiction if there was a finding of discrimination, that that would be the kind of language that would encourage the agency to do its job effectively.

Senator GRAVEL. Very good. Please continue.

Ms. EBE. Senator, I would like to get right to that fungibility issue that Sue just raised.

The argument is that the revenue-sharing funds can be interchangeable with local funds. Now, this is a point that Senator Hathaway brought up this morning, and a prime example of that is in New Orleans where our investigator found that revenue-sharing funds were used for the police and fire departments, and then some local groups began questioning about the minority employment practices of the police and fire departments. So New Orleans transferred all of that money to the sanitation department and used regular funds for the police and fire department.

So that is why we recommend that the only rational way to assure that these civil rights requirements have any meaning at all is that

revenue-sharing civil rights requirements must be made to apply to the entire budget of the recipient jurisdiction, and at a very minimum, when any jurisdiction is charged with discrimination in use of funds through revenue sharing, it should be up to the jurisdiction to prove definitely that no revenue-sharing funds had any part, directly or indirectly, in the project in question.

I would like to go on now to the issue of how the Office of Revenue Sharing has been what we consider woefully inadequate in responding in investigating these civil rights complaints.

For example, in New Bern, N.C., the Office of Revenue Sharing said that they found evidence of discrimination, yet nothing was done.

Further, and more shocking, in Spartanburg, S.C., the ORS came in and said they could make a case, a probable case of race or sex discrimination in all but one of the city's departments, but yet a year later, despite repeated requests from us and from persons in Spartanburg, nothing had been done. And further, I gave the example of Jacksonville where merely a letter was written and it has been a year and they have heard nothing more about it.

The Southern Regional Council in the past has advocated a transfer of the civil rights enforcement responsibility from the Office of Revenue Sharing to the Justice Department and we still stand by this recommendation, for two reasons. First: We think that Justice has a more extensive staff to deal with the problem, and second, we feel that they have a history of familiarity of dealing with civil rights problems.

But assuming that ORS will maintain some jurisdiction, some responsibility in this area, we have several minimal guidelines we would like to recommend. The first is that ORS must operate within strict timetables for answering investigative, and resolving complaints, and given the fact that ORS has been dilatory in responding to complaints, we do not feel the complaining citizens should be forced to exhaustive administrative remedies before they go into the courts, and I think this has been recognized in several court cases, particularly in Mississippi. But at a minimum, administrative remedies should indeed be exhausted at any point at which ORS or any other enforcing agency fails to meet these timetables.

The second recommendation is that ORS should be encouraged and required to monitor the resolution of any complaints, not merely assume that they have been resolved to the parties' satisfaction, but to continue to followup on the problem.

And third, and most important, upon a finding of discrimination, it should be required to cut off funds from any noncomplying jurisdiction that has not come into compliance within a specified time.

A further recommendation is in regard to delegee agencies, and we feel that, given our investigation, that they should have the same enforcement powers as ORS and be required to meet the same timetable that we are recommending.

Now, Senators, we realize that no agency could respond to all the potential civil rights problems inherent in this legislation, and as we state in our prepared statement, up until just recently, ORS had only five civil rights investigators for 39,000 jurisdictions, and we

realize to have ORS adequately respond to all the potential problems would cause a great proliferation of the bureaucracy. So we think along with the spirit of new federalism, that the people in the local communities should be able to respond to the problems that they are observing, and for this reason we think revenue sharing must insure the private right to sue in Federal courts, which I think has been followed in court cases, but to make this any sort of meaningful right, we would recommend that attorneys' fees also be written into this legislation because our research has indicated that the persons who are most likely to be discriminated against are minority and disadvantaged persons who cannot finance the costs involved in extensive litigation.

In conclusion I would just like to say that the investigations of the southern governmental monitoring project have forced us to the conclusion that revenue sharing in some cases can be a vehicle for public apathy and uncontested, invidious discrimination. And we think, along with the spirit of new federalism, it can be more than this. And we would like to see the kind of legislation that inspires trust and interest in the people and equitably gives or distributes funds for all citizens, and we think the recommendations we have made today can help to achieve these goals.

Thank you very much.

Senator GRAVEL. First off, how does a government prove that it doesn't discriminate, I mean, if you put the burden of proof on their shoulders rather than the burden of proof on the litigant, and I appreciate that many of these litigants are poor people who wouldn't even know their way to the courthouse, much less be able to afford an attorney to take them to the courthouse, how does a community say, well, we are not discriminating?

Ms. EBE. Well, I would like to briefly answer that, and I think Ms. Perry, our staff counsel, has some remarks on that.

I think our recommendation relates to the fungibility issue, and because we feel that the money can go in and free up other funds, that the burden of proof is going to have to be on them, because the money gets lost in their budget, and under current procedures we have no way of identifying them. And I think there could be, one case I can think of where they could prove that they did not discriminate in the use of funds, and that would be where they had had a referendum to build X project and the money had come solely from this referendum. That would obviously have nothing to do with revenue sharing. And there could not be a charge of discrimination in the use of revenue-sharing funds there.

Ms. PERRY. I must say, Senator, I am very grateful that you didn't ask that question in reverse, how do you prove a case of discrimination, because after a recent decision, *Washington* v. *Davis*, I don't think any of us are too sure anymore.

But I would say in answer to your question that one way that a jurisdiction could sustain the burden of proof if they had to on discrimination would be to present statistics and evidence in terms of, let's take Jacksonville, Fla., for example, where the NAACP filed an ORS complaint charging discrimination in the use of revenue-sharing funds

with the police and fire department. There the statistics were pretty clear that there was a pattern of not hiring blacks and not hiring women in there on the sworn force, and the statistics proved that out.

And the jurisdictions, I think, are in a much better position, I think, to present this kind of statistical evidence. They keep these kinds of records in the normal course of their business. They keep records about accounting procedures, where the money is being distributed, and I think they would have those records available to them to present in terms of shifting the burden and showing that they had not in fact discriminated.

Senator GRAVEL. Would the fact of mere exposition of a problem, let's say suppose if you had an adversary that was properly funded—and I might say that your organization acts as an adversary in making these investigations and bringing to light something involved and someone involved in racism—if people had the ability to fund investigations and then take those investigations through a normal judicial pattern, would that be as meaningful?

You see, you recommend an action within the bowels of the Government. What I am suggesting as an adversary is something outside the reach of Government. Take one-half of 1 percent of all the moneys that go to revenue sharing and fund the adversary to investigate revenue sharing.

What would be the impact of that?

Ms. PERRY. I think in our region we really do need the money to reach the local government to the extent that the constituency that we speak for, the poor, the black people, really do need these funds in terms of the municipal services.

Senator GRAVEL. They would be getting them more directly. The funds would get to the local government, but then you would have somebody that was in a better position to investigate what they are doing with the funds and they could report this to the people of the community who hypothetically could take action.

Well, let's take the black people. In Jackson, or take another town in the South that is predominantly black, you think they would be able to go vote the people out of office if they had the proper information about their malfeasance in office, or maybe coming from the North I'm looking at it idealistically and that is not really what is happening.

Ms. PERRY. The only thing I can say is I would hate to be in a position of saying that these groups don't need money because they do need money. But these issues vitally affect the community, and we found that these people are interested, they are willing to volunteer their time, take their time to investigate these issues, and that they have not received any compensation in the past.

We, of course, don't receive any Federal funds, and I think most of the organizations that testified here today don't receive any Federal funds.

We have identified private sources of funding to conduct our investigations, and I think it might put us in sort of a compromising position to be receiving money from the very, not the agency, but at least under the same act, and have to investigate the agency enforcing it. There might be sort of a built-in conflict of interest.

Senator GRAVEL. It would be a tie-in that if you are too effective, you lose your job, but of course, with that kind of appropriation every 2 years, you lose your job anyway.

All right, thank you, Nancy. Thank you.

[The prepared statement of Ms. Ebe follows:]

STATEMENT OF MS. NANCY EBE, WASHINGTON REPRESENTATIVE, SOUTHERN REGIONAL COUNCIL

Good morning, Mr. Chairman. I am Nancy Ebe, Washington representative of the Southern Governmental Monitoring Project of the Southern Regional Council. I appreciate your invitation to testify on the important legislation now before your committee.

I would like to address the issues of citizen participation and discrimination in revenue sharing, and in particular to speak to the need for greater citizen participation and firmer antidiscrimination measures in the revenue sharing act. My testimony will be based on information gathered by the Southern Governmental Monitoring Project of the Southern Regional Council, through investigations of sixty communities in the South over a two year period. Much of this information has been compiled in two reports by the Council, Citizen Participation in Revenue Sharing: A Report from the South, and Discrimination in General Revenue Sharing in the South. These reports contain our major findings and recommendations, and I will be glad to make copies available to any of the members of this committee who may wish to see them.

On the issue of citizen participation in revenue sharing, our investigators found only a very low level of citizen involvement in local decisions about the allocation of revenue sharing funds. This is hardly news; the General Accounting Office's report on revenue sharing also pointed out that citizen involvement in revenue sharing decision-making is at an extremely low level throughout the Nation.

Much of the difficulty is due to a general lack of information about the program. Our investigators found that even civically active persons were often uninformed or misinformed about revenue sharing. In Gainesville, for example, a woman very active in state and local women's rights groups had not realized (until informed by our investigator) that another local group had successfully requested the local government to use revenue sharing funds on a suicide prevention project, or that she could attempt to persuade the city to expend revenue sharing funds on a rape crisis center in which she was interested. In another Florida city, Jacksonville, I myself found that the head of a local civil rights group was totally misinformed about the size of the city's revenue sharing allocation, and thought it was some ten times smaller than was actually the case. Attitudes of officials sometimes compound this lack of citizen information about revenue sharing; in Wake County, North Carolina, for example, one public official told our investigator that whenever anyone asked him about revenue sharing, he simply told the inquirer that the county had already allocated all the funds.

If citizens do not know about revenue sharing, they can hardly participate in local decisions as to its use. Indeed, our invesigators found that the revenue sharing program if anything actually diminishes citizen involvement in local governmental decisions. Revenue sharing enables local governments to finance projects that could otherwise be funded only through local tax increases or bond issues, both of which would naturally lead to civic discussion and debate. In Baton Rouge, Louisiana, and in Chatham County, Georgia, our investigators found that local governments were using revenue sharing funds for capital projects (a civic center and a courthouse, respectively) that had previously been rejected by the voters in bond issue referenda. These certainly may be worthwhile projects in themselves, but the point is that revenue sharing has enabled local governments to circumvent the citizen participation that they otherwise would have faced. In short, to some degree the revenue sharing program actually seems to work against citizen participation.

Clearly this flies in the face of one of the revenue sharing program's basic promises: that local governments are closer to the people, and that they are more likely than Federal agencies to spend Federal dollars in accordance with the citizens' wishes and needs. If this premise is to be anything more than a

hollow fiction, some measures must be taken to make certain that citizens receive better information about local revenue sharing allocations, so that they may have a basis for airing their views and exercising their informed criticism about their local governments' actions.

At a minimum, our citizens need more precise and detailed reporting about local governments' planned and actual uses of revenue sharing funds. The present Planned and Actual Use Reports are extremely uninformative. They merely report the amounts of dollars going into very broad general expense categories (e.g., "environmental protection"), without informing citizens of the precise local projects that are receiving revenue sharing funds, and without informing citizens as to the time, place and manner in which they can let their views be known. Planned and Actual Use Reports should include line item statements of actual local expenditures. We recommend that each Planned and Actual Use Report include a line item statement of the local projects to be funded in whole or in part through revenue sharing along with a simple explanation of the total city budget. We further recommend that each Planned Use Report include a statement of the time, place and manner in which citizens may make known their views on planned Revenue Sharing allocations; and that each Actual Use Report explain changes between planned and actual uses.

In addition, public access provisions comparable to those found in the Federal Freedom of Information Act should be made applicable to financial and other data relating to local revenue sharing decisions, so that citizens can be assured of the information they need for an accurate assessment of revenue sharing uses.

No local revenue sharing decisions should be made until citizens have had the opportunity to air their views at public hearings. We recommend that each recipient jurisdiction be required to hold at least two public hearings, one prior to submission of the planned use report and one prior to adoption of the revenue sharing budget.

It is true that many local officials feel that hearings and other citizen participation measures would only be troublesome, and that they already know, by informal means, what the citizens want. But there are many groups of citizens who have traditionally had little access to local government, and who are not familiar with its routines. So long as citizen input into local revenue sharing decisions is only informal, then groups without a tradition of access to local government can easily be shut out, and their views and priorities can easily be disregarded. Our investigators interviewed black people in Newbern, North Carolina, and Latinos in MacAllen, Texas, and women in Spartanburg, South Carolina—to name but a few localities—all of whom felt discouraged at what they perceived as an official unresponsibleness to citizen interest in revenue sharing. An Urban League officer in Memphis, Tennessee, told our investigator that in his opinion, revenue sharing had made local officials *less* responsible to these citizens' needs.

Disregard for the needs of minority citizens naturally relates to the other major topic which I would like to raise with you, namely discrimination in the use of revenue sharing funds. The lack of information about revenue sharing applies to the civil rights area as well as other aspects of the program. In Raleigh, North Carolina, revenue sharing funds have been allocated to police and fire departments; local black persons have filed EOC suits against these departments, but our investigator found that they did not even know about their rights under the revenue sharing act.

Our investigators found many instances of race and sex discrimination in local governments' revenue sharing programs—both employment discrimination and discrimination in the uses of funds. In some instances the Office of Revenue Sharing (ORS) also found evidence of discrimination—but did very little to rectify the situation. In Spartanburg, South Carolina, an ORS auditor's report noted a probable case of race and sex discrimination in every city department except one; but well over a year later, ORS had made no further investigation, despite the repeated complaints of local civic groups. Moreover, contractors and subcontractors on projects funded with revenue sharing not only fail to meet the civil rights standards that the Act imposes upon them; they are often altogether uninformed of their civil rights obligations, and local governments often have made no clear allocation of responsibility for monitoring and enforcing civil rights requirements among contractors. In Charleston County, South Carolina, at the time of our investigation county officials were making no effort to endure

that private contractors observed the revenue sharing civil rights requirements, and a leading architectural contractor employed no blacks and no women.

Discrimination in the uses of funds can be extremely subtle; no doubt this discrimination is often unintentional, resulting not so much from conscious intent as from an habitual inattention to the needs of disadvantaged and minority citizens—who are themselves often reluctant or unaccustomed to press their demands on city hall. In New Bern, North Carolina, revenue sharing funds were to be used to construct two recreation centers, one in a predominantly white suburban area, the other in the inner city. But the suburban center was to be constructed first, and inner city blacks complained that because of inflation, the quality of their center would be inferior if construction were delayed. ORS found evidence of discrimination in New Bern, but at the time of the SCMP investigation had apparently done nothing to assure that the city met its commitments to eliminate discrimination. In Charlotte, North Carolina, black civil rights groups have objected to the city's use of revenue sharing funds to finance expenses incurred in connection with annexations of predominantly white areas; the black groups regard the annexations as a dilution of black voting strength.

Perhaps the subtlest form of discrimination stems from a problem that has often been discussed in connection with revenue sharing: the interchangeability of revenue sharing funds with local funding sources. The General Accounting Office's report of revenue sharing noted that cities could easily evade revenue sharing's civil rights and other requirements, simply by locating revenue sharing funds, for accounting purposes, exclusively in city departments that meet those requirements, while allocating locally-derived funds to non-complying departments. Our investigators found that this device apparently is being used by cities to avoid revenue sharing's civil rights requirements. In New Orleans, our investigator learned that revenue sharing funds were used for a time to pay police and fire department salaries; but after a number of inquires about minority employment practices, the city shifted the revenue sharing funds to such "safe" departments as sanitation—"safe" because less vulnerable to charges of discrimination.

Clearly recipient governments ought not be able to avoid revenue sharing's civil rights requirements by mere accounting devices of this sort. The New Orleans example goes to prove a fact widely realized about revenue sharing: their infusion into one department allows the freeing up of local funds for others, so that the net effect of revenue sharing is an increment to the entire city budget. For this reason, there is only one rational way to assure enforcement of the revenue sharing antidiscrimination requirements: revenue sharing's civil rights requirements must be made to apply to the entire budget of recipient jurisdictions. At a minimum, when any jurisdiction is charged with discrimination in projects funded through revenue sharing, it should be up to the jurisdiction to prove definitively that no revenue sharing funds had any part, directly or indirectly, in financing the project in question. The range of such projects will undoubtedly be very narrow, as for example projects that are authorized by referendum for funding through special local levies.

The extension of revenue sharing civil rights requirements to entire city budgets will not in itself assure that those requirements are enforced, however. Our investigations, like other inquires into revenue sharing, have forced us to the conclusion that ORS has been woefully inadequate in monitoring civil rights requirements, in investigating complaints, and in pursuing those complaints to a satisfactory resolution. It is common knowledge that ORS is pitifully understaffed for civil rights enforcement (until recently, five civil rights investigators for some 39,000 recipient jurisdictions); and this has resulted in delay and confusion in the enforcement of civil rights under revenue sharing. For the citizens involved, it has meant frustration, discouragement, and—among some—an embittered conclusion that federal civil rights could be violated with impunity.

In the past, the Southern Regional Council has advocated the transfer of civil rights enforcement responsibility from the Office of Revenue Sharing to the Justice Department; we still believe that this measure would not only form the point of simplifying civil rights enforcement, but also for the sake of allocating this responsibility to an agency with an extensive staff that is experienced in civil rights matters. But assuming that ORS retains at least some jurisdiction in this area, certain minimal guidelines are essential.

First of all, ORS must operate within strict timetables for answering, investigating, and resolving complaints. Given the past pattern of dilatoriness in

ORS's handling of civil rights complaints, the Southern Regional Council does not believe that complaining citizens should be required to exhaust administrative remedies before resorting to the courts. At a minimum, administrative remedies should be deemed exhausted at any point at which ORS (or any other enforcing agency) fails to meet these timetables. In addition, ORS should be required to monitor the resolution of any civil rights complaints, to assure that recipient jurisdictions are in fact taking the steps required to remedy discrimination. Finally, upon a finding of discrimination, ORS should be required to cut off funds from any noncomplying jurisdiction that does not come into compliance within a specified time. These requirements should expedite the processing of complaints through ORS, or failing that, they should permit complaints to resort to the courts; and they should also serve to remind recipient jurisdictions of the necessity for promptness in remedying civil rights violations.

In the past, ORS has attempted to delegate its enforcement responsibilities to other agencies, some of which lack expertise in civil rights law as well as jurisdiction over local governments. This was the case in Spartanburg, where ORS has attempted to enlist the South Carolina Human Relations Commission to investigate complaints. Any delegatee agency must have the same enforcement powers as ORS, and must operate within the same timetables.

Given the large number of jurisdictions receiving revenue sharing funds, and given the many potential civil rights violations, it is not to be expected that any federal agency or group of agencies can monitor all possible deviations from civil rights requirements. Such a task would lead to an enormous proliferation in the federal bureaucracy, and might result in even greater confusion than already exists. In keeping with the new Federalism approach of revenue sharing, much responsibility necessarily devolves on local citizens to monitor their jurisdiction's civil rights performance, and to pursue their own complaints of non-compliance. For this reason, it is especially important to protect private citizens' right to secure civil rights compliance independently of any federal agency. This means that revenue sharing must ensure a private right to sue in the federal courts. Moreover, our investigations showed that the victims of discrimination are typically minority group members or other disadvantaged persons, and that these persons frequently lack the financial resources for lengthy litigation. Realistically, protection of a private right to sue must include reasonable attorneys' fees, so that the persons most likely to suffer from discrimination can bring their cases to the courts.

The investigations of the Southern Governmental Monitoring Project have shown that revenue sharing in its present form at some time has acted as a vehicle of public apathy and of uncontested, invidious discrimination. If this program is to meet its own fundamental purposes, it must infuse money into our communities on a basis that is equitable for all our citizens, and in such a way as to inspire citizens with trust and interest in their own local governments. We believe that the recommendations we have made can help to achieve these goals.

Senator GRAVEL. We would like to call back the other gentleman. I'm sorry you left earlier. Senator Roth didn't have a chance to get down to the room.

Senator ROTH. I came in just too late.

But this morning in the testimony it was pointed out that a number of church-related organizations, Catholic, Protestant, Jewish, do provide certain types of services to the public at large, and that this has been in part supported through revenue-sharing funds.

It seems to me, reading through your testimony, that what you say is very important. We want to continue these services. The problem with the language in the House bill is that nobody really knows what it means. We are going to end up in court trying to resolve this, even though I do not believe the House intends to whittle away what has been done in the past.

Is that correct?

Mr. KRASICKY. It is correct. But I would like to add that from my own experience in a State attorney general's office, there is a lot of action that can be taken short of going to court. What we are concerned

about is that if this statute is enacted in its present form, there is going to be a great fear that States are going to lose our revenue-sharing funds. So we have got to correct any discrimination anywhere, in any program. They are going to examine our operations, they are going to say, you only admit Catholic children to your schools because we counted them and they are all Catholic. This is the statistics argument that was just made. Therefore you are discriminating on the basis of religion, and rather than risk the loss of any Federal revenue-sharing funds, we are going to cut you off, and there won't be any need for a lawsuit. And I think the effect will be to discriminate against our people, denying them services they are entitled to.

Senator ROTH. Well, let me just reemphasize because I think this is an important point—the problem is that if you have unclear language, you are going to end up in the court in order to resolve it effectively. Perhaps more important is that administratively, in order to avoid that threat of court action, State agencies are going to lean over backward, in effect, discriminate against the services that are being provided now by church affiliated groups.

I think they are both important points.

Mr. KRASICKY. Yes, I agree, but also I would like to clarify a response made to Senator Gravel—I am sorry he left. He asked me about some language that might take care of the problem, and I indicated to him that that would be an improvement, and as I remember the language—and I didn't write it down——

Senator ROTH. I have it here, if I may—

Include a provision to state that religious preference by churches and church-related organizations does not constitute unlawful religious discrimination.

Mr. KRASICKY. I indicated to him that would be an improvement, that it certainly is better than what is in the House bill now. But I don't think it satisfactory because there would be a lawsuit about that, too, and we don't need lawsuits. It seems to me, a good legislative process is to avoid lawsuits and to write things with clarity.

Now, the present revenue-sharing bill in regards to our problems has worked very well. We are not worried that any of our people are being discriminated against because of religion in receipt of services. So, as far as I am concerned, there is really no need to change that provision.

And I pointed out earlier, the comment was made that there is some discrimination by State governments in employment on the basis of religion. We support this, but we suggest that title VIII of the civil rights legislation of 1968, already takes care of this, and it seems to me that you do not use a tax bill to correct a problem that you have legislation for already.

Senator ROTH. Well, one of the mistakes that, in my judgment, the Congress makes, is that we repeat certain ideas in every new piece of legislation in somewhat different language. Those who are responsible for administering and living under it will confuse it. I agree with you. My concern about the language suggested by Senator Gravel is that again, until you test that in court, you don't know what it is saying. And that quarrels with the objective.

It seems to me we would be adding new language that legally is not clear, and that you will have exactly the same problems that you have on the House side. It will have the negative effect of requiring

litigation. Those who are conservative in administrating the law will avoid that potential litigation because of the lack of clarity.

It seems to me a much more straightforward way of handling this is just to eliminate the word "religious." I have heard no other proposal as clear and precise and to the point of what we are trying to do.

Would you agree with that?

Mr. KRASICKY. Yes; I would agree with that, and I recommend that that be done.

Senator ROTH. May I ask you a somewhat unrelated question?

I am awfully concerned about the fact that they tried to add the words "age," and "handicapped."

Again, I am not quarreling with what they are in one sense trying to say. What I fear is that this language would cut two ways, and that we would end up not being able to provide special programs for the aged, or special programs for the handicapped, both of which are legitimate goals for the use of these funds.

Mr. KRASICKY. This is especially true because of some of the other language that they put in to try to correct the problem we raise, which we don't feel does the job. That language is not going to do the job that they think it will, and it is possible the court might rule that it does do what they want, but it is such a risk that it ought not to be taken.

Senator ROTH. I think that is important to be pointed out, that this concern expressed by your group is not one by strictly Catholic groups, but also one raised by other groups.

I mentioned a letter earlier this morning, and I would like to have it incorporated as part of the record. The letter is from the Federation of Jewish Philanthropies of New York. It was sent to Senator Long. In that statement they pointed out that:

> Sectarian-sponsored human service programs were created to provide needed services to members of the sponsoring religious groups. Many such programs, consistent with Federal law, have received public funds for the delivery of these services to eligible persons. As is true with each faith, Jewish child care agencies, yeshivas and day schools grant preference in admissions to Jewish children. Consistent with Title VI of the Civil Rights Act of 1964, they receive Federal funds under the Social Security Act, the school lunch program, education programs for the disadvantaged, and the like. This is permitted because title VI limits its prohibitions against preferential treatment to "race, color, or national origin" in recognition of the existence of sectarian or religious-based programs.

Now, I think that is broad-based support for your testimony.

Mr. KRASICKY. Yes. We have talked with other church-based organizations and other dominations, and they recognize the problem.

We think that the word should be deleted.

Senator ROTH. Well, I thank you for returning, and in closing I would like to say that I intend to offer an amendment.

Mr. KRASICKY. Thank you, Senator.

Senator ROTH. Thank you.

That concludes the hearings for today, and we will reconvene at the call of the Chair.

[Whereupon, at 3:05 p.m., the committee recessed subject to the call of the Chair.]

Appendix A.—Communications received by the Committee expressing an interest in this hearing

STATEMENT OF SENATOR BILL BROCK

Mr. Chairman, I would like to commend you for holding these hearings on General Revenue Sharing even though I know that many members of the Finance Committee are busy with the tax reform conference. Although tax reform is a very important subject, I think that Revenue Sharing is also very important. It is very unfortunate that we have delayed this bill for so long.

This is a bill that should have been passed in 1975. Many of our state and local governments have already begun their 1977 Fiscal Years without knowing the status of Revenue Sharing. On the first legislative day of this 94th Congress, in January 1975, I introduced a Revenue Sharing bill, S. 11, with eleven co-sponsors. I did that not just because I am a strong advocate of Revenue Sharing, but also to try and speed passage. Unfortunately, the House dragged its feet for over a year and a half, and, let me again commend you Mr. Chairman, for not dragging your feet and for quickly taking up this bill despite the Finance Committee's deep involvement in the tax conference.

I have long been an advocate of the concept of Revenue Sharing, even before I knew the proper name. And, I strongly supported the program, first as a Representative in the House, and then as a Senator. Any doubts that I had about this program were rather easily allayed from two events last year that I conducted on Revenue Sharing. One was a series of field hearings that I held in Tennessee, and the other was from a poll I conducted on Revenue Sharing.

In October of last year, I held my own field hearings on Revenue Sharing in first Nashville, and then in Kingsport, Tennessee. We had a good cross-section of witnesses from a Congressman, Jimmy Quillen, to Mayors, County Officials, City Administrators and public interest groups like the league of Women Voters. Although there were some minor criticisms, such as on citizen participation from the League of Women Voters (which I hope we will correct in mark-up), all of the witnesses overwhelmingly endorsed, Revenue Sharing.

I think that Harry Dethero, Mayor of Cleveland, Tennessee and President of the Tennessee Municipal League summed up the feelings of all the witnesses when he stated, "I speak on behalf of municipal officials from across this great state of Tennessee and say to you with the deepest conviction that the cities and towns of this state simply cannot survive as we know them without the continuance of Federal General Revenue Sharing."

Mr. Chairman, these Tennessee Field Hearings were very interesting and educational to me and I think that they would be for the Finance Committee; so, without objection, I would like to make these Tennessee hearings a part of the official Finance Committee record.

Last year, I also conducted a public opinion poll among the recipients of Revenue Sharing and quite frankly, I was overwhelmed by the response. I expected to receive a few thousand replies, but I received over 16,000 replies and that amounts to almost half the recipients. The responses to some of the questions did not surprise me—naturally, they supported the program. However, a couple of the answers did surprise me. When asked "what percentage would local taxes have to be increased if revenue sharing were cut off?": eight percent anticipated a 5% tax increase, 9% anticipated a 5-10% tax increase, 23% said they would have to raise taxes by 10-20% and a whopping 48% said that they would have to raise taxes over 20%. I don't think that we in Congress want this to happen.

When asked what programs would have to be cut, 27% said social programs, 28% said safety programs and 45% said capital improvements. Again, I don't think Congress would like to see these cuts.

Mr. Chairman, without objection, I would like to have the complete results of the poll inserted in the official Finance Committee record.

Mr. Chairman, those two events, my Tennessee Hearings and the results of the Public Opinion Poll have renewed my faith and belief in this vitally important program.

I would just like to make three brief comments on the bill that the House passed. First, I was very distressed that more red tape, paperwork requirements

were placed on Revenue Sharing. Red tape and paperwork are, of course, the very antithesis of the whole concept of Revenue Sharing. I hope that we can correct those flaws.

Second, I hope that we can get at least a 5¾ year extension instead of the House passed 3¾ years. I would actually like to make this a permanent program, but I will settle for a "little" less.

Third, and finally, I hope that we can increase the funding and I don't mean just replacing the $150 million per year step increase which works out to only about a 2% increase. I would like to see this figure at least doubled which still would not keep up with inflation, but at least would be more realistic. I would like to remind the Chairman that in our Senate Finance Committee Budget Resolution we do have flexibility for an increase. One thing is certain, we must correct the House action that simply froze the funds.

Mr. Chairman, I thank you for this time and again commend you for your quick action on this bill.

Hearings on the Continuation of Revenue Sharing

PANEL MEMBERS

Senator Bill Brock, Member, Revenue Sharing Subcommittee, Finance Committee, U.S. Senate; Judge William Beach, National Coordinator for Revenue Sharing, National Association of Counties; and Karen Spaight, Intergovernmental Relations Specialist, Office of Revenue Sharing, Washington, D.C.

Testimony of Robert A. Horton, Fiscal-Administrative Assistant to Mayor Richard H. Fulton

My name is Robert A. Horton. I am today representing Mayor Richard Fulton who had an unavoidable prior commitment today.

Metropolitan Nashville-Davidson County welcomes this opportunity to tell the story of our use of General Revenue Funds.

Counting the funds appropriated in the 1975–76 operating budget, we have committed or spent to date $35,859,310 of General Revenue sharing funds. We have spent $5,800,000 or 16% of the funds on Capital outlay and $30,059,310 or 84% on operating and service programs as set out in the eligible categories of expenditure. (The details are shown on the attached table.)

Our City and County governments have been consolidated since 1963. Metropolitan Nashville offers more than 600 different services to a resident population of 408,000 and to a total daytime population in exceess of 550,000.

General Revenue sharing funds have permitted our local government to maintain and in some instances expand services to people in the face of continued inflationary pressures. We have been able to maintain programs without a property tax increase.

Our total budget for Fiscal Year 1975–76 is about $225,000,000. Appropriations from Federal General Revenue Funds amount to $9,000,000 of this total. This, less than 4½ percent of our budget, may not appear to be a larger factor in our total budget; however, it would take a property tax increase of about 60 cents on every $100 of assessed property value to replace it. This $9,000,000 is also very important because it is an assured multi-year source of funds.

I, as a staff assistant to the Mayor during the past twelve years, have actively pursued the Federal Grant dollar. Categorical grants are often only one or two year funds. Much time and grant management staff is required to try and meet long range people needs from these stop and go revenue sources. Uncertainty as to continued funding makes it hard to effectively staff and operate service programs for the hundreds of Categorical Grant sources. Multi-year special purpose block grants such as the Community Development Program can help reduce the time spent on grantsmanship at the local government level.

Continuance of the Federal General Revenue Sharing program at a level that will restore the purchasing power equal to the level of the first year of this 5 year program is urgently needed. It is the most effective way to strengthen local government and meet the needs of the people. It will help us serve the elderly and the young on a day to day needs basis.

Thank you for this opportunity to appear and tell Nashville's story.

CUMULATIVE TOTAL OF FEDERAL GENERAL REVENUE SHARING FUNDS EXPENDED AND BUDGETED THROUGH JUNE 30, 1976, AMOUNTS SHOWN BY PURPOSE OR FUNCTION, METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENN.

Agency or function	Operating budget	Capital outlay	Total
Police department	$9,363,122	----------	$9,363,122
Sheriff department	1,183,227	----------	1,183,227
Fire department	1,721,123	----------	1,721,123
Public works	3,387,290	$4,000,000	7,387,290
Traffic and parking	406,879	800,000	1,206,879
Health department	2,131,145	----------	2,131,145
Hospitals	5,403,967	----------	5,403,967
Parks and recreation	2,810,284	----------	2,810,284
Libraries	1,242,007	----------	1,242,007
Social services	1,064,528	----------	1,064,528
Finance	873,238	----------	873,238
Water and sewerage	----------	1,000,000	1,000,000
Nashville transit	472,500	----------	472,500
Total	30,059,310	5,200,000	35,859,310
Percent of total	84	16	----------

The League of Women Voters of Tennessee participated in a National Federal Revenue Sharing Monitoring Project funded by the Clark Foundation in 1974. The conclusions which I will report here are based on census information. interviews, budget analysis and other data gathered over a seven month period.

The City of Metropolitan-Nashville-Davidson County received more than $17 million in general revenue sharing funds during the first two allotment periods. At the same time, the city, other agencies and institutions expected to receive a total of $500 million in categorical grants.

General revenue sharing funds were placed, for the most part, in the general operating budget of the city and allocated to various departments for needed, priority programs. These funds probably did not alter the overall pattern of city budget allocations but did, in some cases, result in increased allocations for various projects. A road paving and traffic signalization program financed by revenue sharing funds would have been carried out anyway but to a lesser degree over a longer period of time. Almost $500,000 of general revenue sharing funds were used to take over the privately owned and failing mass transit system. The action to take over operations might not have been so readily approved if General Revenue Sharing funds had not been available.

Priority needs and programs, according to those interviewed, covered a wide spectrum of government services. Public safety, water and sewer improvements and a whole range of social services topped the list.

Revenue sharing funds were used to help all the people, according to the Administration. Traffic signalization and improved streets benefitted all drivers—upgrading the Police department and hiring additional personnel added to the public safety—and salary increases to key personnel maintained quality of services to citizens. These were just some of the comments received.

The taking over of the mass transit system by the city, upgrading the geriatric unit at Metro Bourdeaux Hospital a[illegible] the use of funds to continue a juvenile delinquency program were classified by some as helping the disadvantaged. Some funds were given to the Health Department to continue programs, but Health Director Dr. Joseph Bistowich said he would like to see more revenue sharing funds given to his department. Cuts in air pollution control, rat control programs, the children's immunization program and a general cutback of federal funds for his department since 1971 were cited as his reasons for needing more general revenue sharing funds.

The Model Cities program here was also cut, but according to Mr. Floyd Murphy of the Metro Action Commission funds for Headstart, the Neighborhood Youth Corps and the Neighborhood Service Systems remained at the same level in 1974 as before.

Most of the people we interviewed believed that general revenue sharing funds had prevented an increase in property taxes in Metropolitan Nashville. By placing the money in the general fund and expand services without increasing property taxes. But, there has been some disagreement over putting revenue sharing funds into the budget.

Many Councilmen, and most that we interviewed, believed revenue sharing would not continue and the money be used for a one time capital outlay expense such as water-sewer improvements. I would agree that if the revenue sharing act is not renewed the city will have to come up with new money to replace federal revenue sharing funds if they are to continue programs and services at the current level.

I would think that most people believe that both general revenue sharing funds and categorical grants are needed. Many feel, however, that categorical grants should be consolidated from the now thousand to 25 or 50. City officials also said they wished categorical grant requirements could be simplified—that there was a great deal of red tape and that many grants did not coincide with the city's fiscal year . . . making budget bookkeeping difficult.

According to our research, the city of Nashville did not misspend any of the revenue sharing funds received. It was spent in the categories specified by law. Many people, I believe, thought that because the enactment of revenue sharing coincided with the cutting of some categorical grants, that it was to replace the grants. This has been done to a certain extent. The juvenile delinquency prevention program was continued with revenue sharing funds.

In conclusion, I do believe there is a need for the Federal Government to continue revenue sharing. I believe the money has enabled the city of Nashville to improve and expand services to citizens without increasing property taxes. I also think categorical grants are necessary, but that they should be consolidated and simplified.

TESTIMONY FOR SENATOR BROCK'S HEARING ON REVENUE SHARING

Revenue Sharing has apparently not altered the pattern of state budget allocations. Revenue Sharing funds have been treated as one more source of income to the state and been lumped in with the General Fund.

It is difficult to determine the win-loss score on Revenue Sharing at the State level. Where some programs have been reduced or eliminated by the Federal Government through grants-in-aid, the state has picked up on some. Also the federal government has taken away in some areas and added in others. One clear example is the O.E.O. program. The former Governor backed a Human Resources Agency Act which the administration felt would enable it to minimize the effect of loss of OEO funds as much as possible. It was planned that with sufficient funds in the budget he could retain a "core staff" who would be "in sympathy with the problems of poverty" and who could advise the governor in redirecting certain types of funding after C.A.A. funding was over. The Human Resources Agency would be entirely state funded. However, the neighborhood aides of the C.A.A. program would be without employment, and it was estimated that 50% of those in the neighborhood aide program would go on welfare!

At the state level there is a difference in the type of participating in GRS funds decision making than there is at the local level. Possibly because of the lack of restrictions found in regulations of expenditure of state GRS funds, these funds could be put in the General Fund without earmarking and spent without debate. This would explain the lack of knowledge on the part of the legislators regarding the planned uses and actual uses of Revenue Sharing. I feel sure that merely conducting the RSM Project interviews served as an impetus to some to inform themselves better regarding Revenue Sharing. Raising many eyebrows. Follow-up by active participation in the overall budget process on the part of community organizations at the times and in the manner suggested by the participants of this study will reveal whether there already exists in fact the opportunity for citizens to have a part in the decision-making process. Too often, citizens and organizations get involved too late in the process, if not after the fact. This can be for lack of prior information, and to overcome this, the media should be encouraged to publicize and educate as much as possible concerning the budget process and hearings. For instance, the state's Actual Use Report (for period ending June 30, 1973) was officially published in only one metropolitan newspaper (Knoxville). The expectation of government officials was that the wire services would pick it up as a news item. They did not. The reporters who cover the capitol were remarkably uninformed about revenue sharing, as revealed by the interviews. Results of the RSM Project certainly need to be shared with the media.

Are poverty and minority groups in the state receiving a fair share of revenue sharing money? I think that they possibly receive more benefits indirectly, than directly. Upgrading education in many ways that will aid low-income and minority groups is clear. At the same time there is no doubt that some people-programs have been cut or phased out in other areas, to the detriment of those groups. While his cannot be proved by accounting methods, it would seem that the emphasis shifted from "cure" of poverty to prevention, to greatly oversimplify, and it is apparent that in between the two approaches there are some people suffering for lack of support who were better served before.

TESTIMONY OF MAYOR HARRY DETHERO, CLEVELAND, TENN.

Senator Brock, Ms. Spaight and Judge Beach, I am Mayor Harry Dethero from Cleveland, Tennessee, and I appear before you today not only as a Mayor of a city that depends vitally upon revenue sharing, but also as President of the Tennessee Municipal League. In the latter capacity I speak on behalf of municipal officials from across this great state of Tennessee and say to you with the deepest conviction that the cities and towns of his state simply cannot survive as we know them without the continuance of federal general revenue sharing.

I want to say at the very outset that we in municipal government in Tennessee are very heartened by the fact that Senator Brock has proposed, in Senate Bill Eleven, that revenue sharing be made a permanent program and that the funding level be tied to a percentage of the federal adjusted gross income. We draw additional encouragement from the fact that his bill would remove program restrictions upon local government. I only hope that others in the Congress will join in supporting this concept.

Ladies and Gentlemen of the panel, I am very much concerned as I come before you today that there is even the slightest hint that federal general revenue sharing might not be reenacted by the Congress of the United States in 1976. This program has been the most significant step for local government in the United States this century. It is important not only in terms of the money flowing to state, county, and city governments, but also—and perhaps this is even more important—because of the principle represented here and embodied in the phrase "new federalism." This principle, as I see it, says in simple terms that whenever possible government should be kept as close as possible to the people. It can be trusted to initiate and administer local programs. This principle says that what is good for Rochester, New York, is not always what is good for Cleveland, Tennessee. This principle echoes Lincoln in saying that you cannot, indeed, fool all of the people all of the time and if local officials mismanage local projects they will be turned out of office by their citizens.

Along with thousands and thousands of local government officials across the face of this nation, I was greatly encouraged several years ago when we finally managed to dispel most of the fears and saw general revenue sharing pass in the Congress. Since that time the program has grown and taken shape until now it means $40 million coming to the state of Tennessee and $80 million coming to the counties and cities of Tennessee. My own city of Cleveland will receive $360,311 in general revenue sharing funds this year. This will allow us to meet critical needs in health, safety and transportation programs. These monies flow down to us with the fewest possible restrictions and are based simply upon one reality: that a portion of the money collected through progressive federal income taxes should be used to reduce the regressive burden of state and local taxes. And further, it is based on the reality that the greatest benefit for the greatest number of citizens can be derived by allowing maximum local discretion in the spending of these funds.

While the Tennessee Municipal League is alarmed that federal general revenue sharing might not be re-enacted, I do not simply want to confine my remarks today to a simple reaction to that fear. In fact, the truth of the matter is that revenue sharing needs to be greatly expanded. The current program increases at an annual rate of $150 million, or approximately two percent a year. The administration is proposing in its reenactment package to continue the annual increment at its present rate. But this is certainly not enough. With inflation raising municipal budgets by 12 to 15 percent a year, it is evident that the real dollar value of revenue sharing payments is being seriously eroded. The $6,050,-

000,000 in revenue sharing funds allocated for fiscal year 1974, when corrected by the gross national product price inflater is now worth only $5.5 billion.

Inflation, however, is only one side of the current economic crisis. Recession is also seriously undermining the ability of local governments to perform their essential functions. In a recently conducted National League of Cities' survey, 42 of the 67 cities surveyed indicated that they were planning to either increase taxes or cut services during the coming year.

The reenactment legislation must take into account the eroding real dollar value of revenue sharing, as well as the eroding fiscal conditions of local governments. A two percent annual increase in the program is clearly insufficient.

The Tennessee Municipal League is also concerned that efforts are being made to place revenue sharing under the jurisdiction of the annual appropriations process. The present program is now funded on a five-year basis and does not require annual approval by the Appropriations Committee. Since revenue sharing funds have become an intrical part of the operating budget of local governments, and since most of these dollars are being used to maintain essential city services, it is imperative that a long range federal commitment to revenue sharing be continued. This can only be achieved if the program is maintained outside of the annual appropriations process.

Ladies and gentlemen of the panel, the municipal officials represented by the Tennessee Municipal League are well aware of charges now being made that revenue sharing has been abused at the local level. The truth, however, is that abuses are so minor and so rare as to make them almost insignificant. In fact, the truth of the matter is that thousands upon thousands of local officials across this nation have performed their duties and met their responsibilities in relationship to revenue sharing funds in a manner that should being praise and not condemnation from leadership at the federal level.

One frequently made criticism is that not enough citizen participation is involved in the allocation of revenue sharing funds. To begin with, it seems to many of us that the democratic election process upon which this nation was founded is in itself a great adventure in citizen participation. What better way for a citizen to participate in his local government than to get out and work for candidates who will represent his wishes in the governmental process. But we do not suggest that the citizen participation process stop there. In community after community across this state and across this nation you will find that committees of state legislatures, county courts, and city councils and commissions have held exhaustive public hearings where anyone and everyone in the community is welcomed to come forward and make a case for spending revenue sharing funds in a given way. But as all of you will know, ultimately the elected official must make a final decision. And usually, when that decision is finally made, someone is disappointed. It would be a tragedy if a few disgruntled individuals who failed to get their way regarding some pet project were to eventually lead to the downfall of this great program.

Many critics argue that the revenue sharing program must be redesigned in order to force certain reforms in state and local governments. Among the most commonly heard complaint is that revenue sharing works as a disincentive towards local tax reform. My own view is that as hard pressed as local governments are for new revenues—and their needs far exceed the amount of money coming in from federal revenue sharing—local officials are not going to be inclined in future years to leave any stone unturned in increasing the local tax base. And in the state of Tennessee, particularly, with our restrictive constitution which places us at least several years away from meaningful tax reform, it would be a tragedy indeed if we were to be penalized for not reforming our laws when actually we must first go through the slow process of reforming our Constitution. And, incidentally, the Tennessee Municipal League has an urgent priority item in its state legislative platform calling for a constitutional convention to go into these very tax questions.

Other critics have accused the Office of Revenue Sharing of failure to vigorously enforce the civil rights provisions of the Act. To begin with, we submit to you that cases of discrimination involving revenue sharing funds are minimal indeed. But the Tennessee Municipal League and its member officials are squarely behind any meaningful actions which can be taken to ensure that these funds are spent without the slightest bit of regard to race, religion or national origin. The municipal officials of this great state of ours are struggling to make a better life for all of their citizens—and I emphasize the word ALL. In this

regard, I would point out that the Office of Revenue Sharing is dependent upon the Congress for the appropriation it needs to adequately staff its civil rights compliance division. Recently Congress refused to grant the Office of Revenue Sharing the funds sought for compliance activities. It would seem to us that any attack upon possible discrimination should begin with increased funds for compliance activities and not with new, massive restrictions that would make the program inoperative.

I close by saying to you that general revenue sharing is the best federal program now in existence. Unlike narrowly defined federal grants, general revenue sharing funds are minimal allocated with a minimum of federal bureaucratic red tape. Spending decisions are left to local elected officials and are spent according to local needs and priorities. Local officials, accountable to local voters, make the decisions, not some nameless bureaucrat in Washington. Since the funds are allocated through a formula and for a five-year period, we do not have to contend with funding delays and needless federal interference. This makes for certainty of planning.

On behalf of the Tennessee Municipal League I wish to thank you today for allowing me to appear before you. And in seeking to convey to you how very strongly we feel about this matter, I would leave you with a single comment. It is not said in an attempt to be dramatic. Rather it seeks to portray the reality of our current situation. The comment is this: the very survival of local self-government in this country depends in great measure upon the survival of federal revenue sharing. Thank you.

Revenue Sharing Remarks

I am Dorothy Orr, County Judge of Bedford County, Tennessee. I am the only woman County Judge in the State of Tennessee and for twenty-five years I have not missed a Quarterly County Court meeting. Therefore, I speak with confidence and experience.

Revenue sharing has been like "manna from heaven" to Bedford County. Badly needed projects have become a reality because of Revenue Sharing. Some of these to-wit:

(1) A badly leaking Courthouse now repaired.
(2) A new addition to our jointly owned City-County Library.
(3) A new jointly owned Ambulance Authority Building.
(4) Three large pieces of highway machinery.
(5) A County Fire Truck Building.
(6) Additional oil for Highway Department.
(7) A new sanitation truck and containers.
(8) Badly needed equipment and repairs at the County Hospital.
(9) New voting machines.
(10) Dead Animal Removal Service.

We are now in a Ten and One-Half Million Dollar School Building Program for the entire County. With a burden such as this on the taxpayers and an unemployment rate of 16% in the County, how can we possibly do other needed projects with local taxes. We desperately need continuation of the Revenue Sharing Act. In the 1975–76 County Budget $86,000 for school buses and $42,500 for the Solid Waste Program is provided by Revenue Sharing.

Badly needed projects facing us are:

(1) New jail. At present we do not have a padded cell for mental patients or alcoholics. We do not have a juvenile detention place of any description. If we could have two or three cells set aside and designated for juveniles in a new jail would be sufficient. The old one is well over a hundred years old and has been condemned.

(2) The burden of needing a new sanitation truck and landfill is facing us.

(3) We do not have a decent road to an interstate highway. How can we attract industry if we do not improve this situation?

(4) River bridges leading into our town are unsafe.

(5) Social services and child care are sadly lacking because of shortage of funds.

We are proud of our community and the progress we have made. I have lived in Bedford County all my life and know the needs of our County. I am delighted that I am known as a non-political judge. It is frustrating to local officials like myself with only one secretary trying to wade through red tape, rules, paper

work and, especially, the never ending stream of forms from the Bureau of the Census.

Therefore, I must humbly request and plead, continue Revenue Sharing but give local officials more input and control. I can never get our needs and grants coordinated. Someway, somehow, get our needs and grants together.

Hear the rural voice as we "cry in the wilderness" continue the revenue sharing act.

Thank you for this opportunity to be heard and to be able to express an opinion.

Respectfully submitted,

DOROTHY ORR, *County Judge.*

REVENUE SHARING HEARING

PANEL

U.S. Senator Bill Brock; Judge William Beach, Montgomery County Judge, 2d vice president, National Association of Counties; Karen Spaight; Office of Revenue Sharing, Washington, D.C.

WITNESSES

Congressman James Quillen; Mayor Kyle Testerman, Knoxville; Mayor Tom Love, Greenville; Raymond Schweitzer, City Administrator, Morristown; Judge J. B. Howe, Hawkins County; Kathryn C. Bryant, League of Women Voters; and Mayor Richard Bevington, Kingsport.

STATEMENT OF CONGRESSMAN JAMES H. QUILLEN

REVENUE SHARING AND TENNESSEE'S FIRST DISTRICT

I want to extend a hearty welcome on behalf of the people of my hometown of Kingsport to the three panel members with us today. Karen Spaight, the Tennessee coordinator of the Office of Revenue Sharing, and Judge Bill Beach, the National Coordinator for Revenue Sharing for the National Association of Counties have both contributed to the success of the Federal Revenue Sharing program.

And an especially warm and openhearted welcome to one of the ablest and hardest-working United States Senators, my good friend, Bill Brock. Bill, I would also like to commend you at this time for your initiative in independently holding the hearings yesterday in Nashville and here today. You and I have worked hard for the success and improvement of this praise-worthy experiment in creative federalism, and I am confident that today's hearings will contribute to these efforts. We're all proud of the great work you are doing for Tennessee, Bill.

Today's hearing is timely because the current Revenue Sharing program expires in December of next year, and Senator Brock is hopeful that his Subcommittee on Revenue Sharing of the Senate Finance Committee will schedule hearings before Christmas aimed at enhancing and extending the current program. Senator Brock and I have sponsored identical bills in Congress to revise and extend Revenue Sharing beyond next year, and in addition, he has authored a bill which contains several provisions designed to improve the program which I believe merits serious consideration.

Revenue Sharing, unlike almost all other Federal programs, provides for local control of the funds, and has already proved a great success in Tennessee's first district, and throughout the state and nation. The return of monies to the state and local levels of government has been impressive in its amount and in the number of worthwhile projects it has funded. Let me cite just a few figures to illustrate this point. Since the first funds were allocated in December of 1972 through July 7th of this year, the following local governmental units have received these amounts:

All Sullivan County governments—$3,903,720; city of Kingsport—$2,165,889; city of Johnson City—$1,865,103; city of Bristol—$1,243,627; city of Elizabethton—$1,165,706; city of Greenville—$1,303,757; and city of Morristown—$1,866,644.

The projected payments through July of 1976 for selected first district governmental units are:

City of Kingsport—$635,198; city of Johnson City—$499,181; city of Bristol—$321,875; city of Elizabethton—$528,946; city of Greeneville—$572,565; and city of Morristown—$916,649.

Additional revenue sharing figures from Department of the Treasury

From beginning of program in December 1972 to July 7, 1975:	Amount
Carter	$858, 874
Cocke	1, 089, 897
Greene	1, 501, 468
Hamblen	624, 908
Hancock	588, 597
Hawkins	1, 221, 045
Grainger	412, 646
Jefferson	607, 420
Johnson	422, 788
Unicoi	475, 779
Sevier	696, 679
Washington	1, 253, 428
Sullivan	3, 908, 720
Additional projected funding through fiscal year 1977:	
Carter	407, 724
Cocke	408, 145
Greene	402, 892
Hamblen	275, 841
Hancock	214, 210
Hawkins	615, 186
Grainger	99, 108
Jefferson	228, 121
Johnson	350, 655
Unicoi	297, 118
Sevier	509, 253
Washington	491, 847
Sullivan	1, 054, 127

The First Congressional District has received $26,042,379 since the beginning of the program, and projected payments through next year will increase the total to $37,175,613.

That is quite a large amount coming back to us from Washington, and these funds are vitally needed, especially when one considers that local governments have had to tax to the limit. I know the local officials with us here today will testify to the necessity that Revenue Sharing be continued and expanded in every possible way, and I fully support that position.

We must continue and enhance the Federal Revenue Sharing program, and I pledge my whole-hearted support in achieving this goal. The peoples' tax dollars are better spent at the local levels of government than they are by the agencies and departments in Washington. The Revenue Sharing program is American federalism at its best. Let's make it work even better.

STATEMENT OF MAYOR KYLE C. TESTERMAN

Mr. Chairman and distinguished members of this committee: I am Kyle C. Testerman, Mayor of Knoxville, Tennessee—a neighbor of the City of Kingsport with a Greater Metropolitan base of approximately 400,000 people. With pride, I add, that our City is located at the foothills of the Great Smoky Mountains—the most visited national park in the U.S.—with 8,000,000 tourists annually.

I appear before you today at the request of our our highly respected Senator and my good friend, Senator Bill Brock.

After a few brief introductory thoughts and comments, I would like to explore with members of this Committee the positive impact which the 1972 State and Local Fiscal Assistance Act (Revenue Sharing) has had on the fiscal management of our City and the improved delivery of governmental services which this program has provided to those whom I represent.

The limited pages of my written testimony will be dedicated to sharing some observations which have made me a firm believer in both the philosophical and practical applications of the General Revenue Sharing Law.

At the outset, Revenue Sharing embodies those constitutional principles of government by the people which we will soon celebrate during the Bicentennial

of our nation's birth. The fundamental premise underlying the American federal system is a concept that government must remain close to the people it serves. Within this system, it is the ctlies which are most directly in contact with the people and should, therefore, be the units of government most responsive to their needs. Paradoxically, this crucial role implies that the cities have the resources—and the capabilities—for meeting these needs. Yet, as a participant in the President's Conference on Inflation approximately seven months ago, we heard time and time again that America's cities are being squeezed in a financial vice as never before since the great depression; one jaw of the vice is the rapidly increasing need to deliver services; the other jaw is the inability of many cities to raise the revenues required to maintain even their present degree of health. Please be assured that when New York City defaults on a bond issue as in recent months—the shock waves of increasing interest rates and the resulting higher cost of governmental services are felt in all of the 39,000 local governments throughout the nation.

With this ominous cloud of inflation hanging over the heads of local governmental officials, it becomes abundantly clear that revenue sharing must be extended during 1975 for practical as well as philosophical reasons. Since October, 1972, the date of Revenue Sharing's birth, inflation has cut deeply into the "windfall" which many labeled the dollars designated to flow from this program. For example, the $6 billion in revenue sharing funds set aside by Congress in 1972 for use in 1974 were, in reality, only worth approximately $5 billion when adjusted for inflation. In Tennessee, the gap between those revenues necessary for the operation of local government and those revenues actually available is just as staggering. A conservative estimate finds a revenue gap of $425,000,000 existed within Tennessee's 300 municipalities during the first half of this decade. I might add that this figure is not for Tennessee's four metropolitan areas alone, but is felt in less populated units of local government such as those with a population base between 3,000 to 10,000 residents where an $18,000,000 revenue gap exists.

This is not a pleasant tale to tell but the fact remains that Revenue Sharing is not a luxury, but, in fact, a necessity if local governments in Tennessee and elsewhere are to serve the local taxpayer, who, after all, is a federal taxpayer as well.

No longer can the local taxpayer be fooled into believing that somehow his federal tax dollar is raised from sources other than out of his own pocket. The local and the federal taxpayer is one in the same. As a result, Revenue Sharing must be re-enacted in order to insure a fair return in local services for local tax dollars invested with the Federal Government. The citizens of Knoxville and other communities throughout the nation will no longer tolerate situations as existed in 1970 when the Federal Government expended $23.0 billion in aid to states and local governments, while the citizens of cities and states throughout the nation contributed $90.4 billion in income tax receipts to the Federal Government. The inequity of this situation becomes manifest when one computes that only an amount equal to 26.4% of income tax receipts was spent for aid to cities and states in 1970. This percentage shrinks much further when total federal receipts, including corporate income taxes, excise taxes and other components of federal fund resources are added. This situation is no longer tolerable.

Further, a look at the track record of how the federal government has misspent the nation's tax dollar reinforces the revenue sharing concept of returning federal tax dollars to those who are closest to the needs facing our communities.

While federal officials point their fingers at local governments' fiscal irresponsibility, let's take a look at what the federal government has done with millions and millions of our federal tax dollars.

For example, the federal government has spent:

1. $23,000 on a study to find out why children fall off tricycles.
2. $117,250 annually to support the federal board of tea tasters.
3. $375,000 was spent to study the military application of the frisbee.
4. $203,979 was spent on travellers aid for migrants who get lost on the freeways.
5. $72,000 has been allocated to a university in Yugoslavia to determine why white wine turns brown.
6. $47,862 has been spent on taxi fares to transport welfare recipients to and from agencies which provide welfare checks.

In addition to the figures cited herein, the federal government has allocated to itself approximately $860 billion during the last eleven years for domestic pro-

grams. But while the federal bureaucracy has expended billions of dollars on the cities' ghettos, it has only resulted in creating billion dollar ghettos. The time has come to reverse the decision making from Washington to City Hall where we take the problems of the people seriously and expend the tax dollar on meaningful programs.

Without question, the time has come to extend the General Revenue Sharing Law as a method to reinforce those governmental institutions which are closest to the people. Gentlemen, the answer to this fiscal crisis is not more federal categorical grants. The day-to-day demands being placed on Mayors by their constituents can no longer be answered by sending city officials to Washington to roam the halls of HEW, HUD, and DOT and other departments in an effort to coax aid out of these agencies laden with red tape. We no longer have the time to prepare reams and reams of paper to qualify, justify and document receipt of over 500 possible grant-in-aid programs, and, in particular, the citizens of Knoxville no longer need a far removed Washington bureaucrat to decide what are the priorities in their community, especially when the decisions of that official are not subject to evaluation at the ballot box, nor do we appreciate the insensitivity of a Washington bureaucrat who queries in what section of Southern California is Knoxville.

As appreciative as we may be of these federal grant-in-aid dollars, when finally received we need money today—to hire policemen, firemen and sanitation workers and money to operate our various departments of city government as well as meeting new and costly federal guidelines such as those placed upon local governments by the EPA.

Finally, the Senate Foreign Relations Committee on October 1, 1975 reported legislation authorizing $2.8 billion for foreign economic development and assistance during FY '76 and '77. Yet, the Senate Finance Committee has yet to take the necessary action to permit Senate passage of the Revenue Sharing Law during this calendar year. While the Senate has come up with zero Revenue Sharing dollars for the nation's cities during the next fiscal year, it has provided foreign governments with $603 million for agricultural and rural development, $243 million for population planning and health, $89 million for education, $25 million for hospitals, and $96 million for various technical assistance programs.

Hopefully, through the work of this special committee, the Senate will hear the voice of the people who are fed up with unbridled federal spending and thankless foreign aid programs and begin to place items on its agenda such as Revenue Sharing which represents a solid investment in America's greatest resource—its people and its cities.

I would like to express the appreciation of all Knoxvillians to Senator Brock for his leadership in reversing the flow of decision-making power and financial resources from Washington to city governments. We applaud Senator Brock for his role in the development of the 1974 Housing and Community Development Act which allows local governmental officials greater flexibility in revitalizing our cities. His leadership in guiding Congress toward greater control over the federal budgetary process and, finally, hs dedication to the extension and revision of the General Revenue Sharing Law are all worthy of the highest commendation.

I now welcome any questions which you might have concerning the impact which Revenue Sharing has had on the City which I am proud to represent, Knoxville, Tennessee.

INTRODUCTORY STATEMENT

Honorable Bill Brock, Honorable William Beach, Ms. Spaight, it is an honor to appear before this panel to share my views on general revenue sharing. I appreciate your interest in finding out what revenue sharing has meant to Greeneville and what the effect would be if it were withdrawn.

As Congress faces the responsibility of renewing or terminating General Revenue Sharing, I am most grateful for the opportunity to express my views on this program so vital to local government. I am *for* General Revenue Sharing. As the mayor of a town of around 14,000 people, I have seen firsthand that it works.

The Federal dollars are a must—local governments must have them. But, the way these dollars are handed down can make the critical difference.

"Urban Renewal", "Matching Money", "Categorical Grants" are terms we learned to live with; but, they cramped our style. After so much red tape, we got

the dollars—maybe. We got to spend the dollars. But, we did not get to decide on the priorities. We did not always do the most important things first. The dollars were to be spent on projects in certain categories that may or may not have been the ones in which we were experiencing the greatest need at that time. Maybe the community building we were able to get a grant for was nice, but what the people may have really needed was more outdoor playground space, etc.

Still, we as local elected officials were the ones accountable to the people in our town. We see our constituents on the street daily. We hear their requests. And, we had better respond to them.

This is what general revenue sharing allows us to do. This program places the responsibility in the lap of local elected officials. We realize this, and we welcome it. At least this way we answer for decisions we have some direct input into. This is as it should be.

I agree with the basic concept of general revenue sharing—funds for local governments with few strings attached. Since it does work, I would like to see the program not only renewed but made permanent with few, if any, changes.

Although there are probably some inequities in the way the money is handed out, there will never be a perfect system. It seems to me that population, tax effort and need are logical criteria for determining who gets how much.

Although there are still certain categories within which we say we plan to spend or actually did spend our revenue sharing dollars, they are broad enough, generally, to include expenditures connected with regular government functions.

I realize that big cities are having big problems, and Congress will be under great pressure to channel more money to them. However, I hope our Congress will *not* consider draining funds from revenue sharing.

Small towns are having problems too. But, we are trying to cope with them. Renewing general revenue sharing is one way Congress can help us get the job done.

Over the last four years general revenue sharing funds have enabled the town of Greeneville to make capital expenditures for projects we could not possibly have done otherwise, without unacceptable property tax increases. We have been able to plan our priorities, then use Federal dollars for one-time expenditures, leaving our local income for general operation. We have progressed with the overall plan for impoving our town without putting an unbearable tax burden on people with fixed incomes—on all taxpayers, at a time when the inflation-recession combination was taking its toll.

Towns and counties are growing and will continue to grow. This means we must not only plan to maintain services but we must continually provide more and better services. At the same time more and more of our people are retiring on fixed incomes. These people are my real concern.

It is a compliment to our part of the country that many people choose to make their retirement homes here. These people have worked hard all their lives and now that they have retired and continue to live here or have moved here upon retirement, it is not right that they should have to wonder whether they will be able to afford the necessities of life. We must consider these people.

General population growth and annexations that naturally come about as frange areas around a city develop and the resulting increase in demand for government services bring on increases in State and local spending that our revenues cannot keep up with. Our incomes from sales and property taxes just cannot get the job done. Everything we buy costs more, and it costs us more to deliver the services demanded of us.

This rather complicated situation of income simply not keeping up with expenditures is the reason I feel Congress *must* extend general revenue sharing, if communities, towns and cities are to escape financial disaster.

I would like to share with you some information about how Greeneville has used or obligated revenue sharing dollars to carry out a plan for coping with the demands made by a growing town.

The $80,000 the town has obligated in the form of a building site and contribution toward the construction of a new library is helping make possible a much needed facility that Greeneville and Green County can be proud of. And, this is truly a community project in that it is being paid for entirely by funds contributed through the town and county governments and by local businesses, industries, groups and individuals.

The $80,000 used to remodel an old school building for use as the Roby Fitzgerald Adult Center made it possible for our senior citizens to have a place of their own. It is especially meaningful to them because many of them were at the school either as students or teachers and are back in familiar surroundings to spend their leisure hours.

This project is an example of how a local government made constructive use of a sound old building it had to either tear down or maintain. We could not have built such a building at any price, nor could we have bought the atmosphere that is part of this fine structure dating back to the 1800's.

Some $513,000 was used for an addition to our high school. Faced with the need for space for the kindergarten program, our school board felt it would be wiser to add to one school than to five. This was done in connection with the conversion from a junior high school to a middle school setup whereby sixth, seventh and eighth year students go to middle school and ninth, tenth, eleventh and twelfth year students go to high school. Relieving each of the five elementary schools of the sixth year students made space available for kindergarten classes. The addition at the high school was necessary to absorb the increased number of pupils and maintain the quality of programs offered.

The addition includes downstairs space that is used for student activities and can be finished for classroom space when needed.

Another important area revenue sharing has enabled us to move forward in is the fire department. We used $100,000 to buy land for a new central fire hall, a new fire engine, etc.

Previously, no Federal monies were available for the fire departments. This sometimes created misunderstandings within towns because Federal grants and loans might be available for expanded services in other departments—the police department, for example—but there was nothing to apply for for the fire departments.

Greeneville has also obligated $75,000 for a new public works building being built near the new fire hall site. The revenue sharing money is enabling us to move our streets and garbage department headquarters away from a downtown corner, where large vehicles have to get on and off the street. We are using manpower programs to provide labor for this project.

These items along with $75,000 spent in the recreation department for property and expansion of our programs, $250,000 for streets and $50,000 in the environmental protection category, were all capital improvements we would not have been able to carry out, had it not been for general revenue sharing.

Due to the unusual economic conditions we had to face and anticipate as we drew up the 1975–76 budget and because we had been able to catch up on our capital improvements, our town officials felt it would be better to budget $250,000 toward operation of our department of public safety than to raise property taxes.

This is the first year we have used revenue sharing for the operating budget but we felt that to do otherwise would add troubles to an already troubled economy. I believe we made the right decision.

In summary I would say simply that I sincerely hope Congress will not allow revenue sharing to expire in December, 1976, but will make this program permanent so that local governments will continue to run and local officials will run them.

Thank you.

MORRISTOWN, TENN., *October 15, 1975.*

Re Federal revenue sharing hearing, October 17, 1975, 10 a.m., Kingsport, Tenn.

Hon. WILLIAM E. BROCK III,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BROCK: The below comments are set out to give you my impressions of the categorical grant system, and General Revenue Sharing as it compares with the categorical grant programs. I have then given you a brief description of how the City of Morristown spent its first three years funds. Next I have a few choice comments on citizen participation in general, local budget revenues and reasoning why the Federal Revenue Sharing should be made permanent, inflation proof and finally a list of desirable priority requirements if congress insists on keeping the program essentially the same.

The categorical grant system from its inception was always slowly dying of starvation since it was never properly funded. We have found typically that a grant program was available yesterday, maybe again today, not available tomorrow, sometimes to return next week in another form. Heretofore, cities had to get "geared up" and keep a substantial "unappropriated surplus" on hand to determine what program was going to be funded. (Surpluses are unpopular with local taxpayers.)

You might enjoy what I term as "grantsmanship."

1. The City sets its goals! (Find goal definition in the federal categorical grant catalogue).

2. Justify your goals with the priority category being funded by congress that year! It should be funded provided:

(*a*) You have a staff member write an acceptable application in the correct jargon that gives the City the maximum allowable points—thus getting a high priority on your preliminary application.

(*b*) Have a good bureaucratic friend at the area or regional federal office.

(*c*) Have a working knowledge of how a particular federal office works.

(*d*) Conduct a good follow-through about once per week to determine your application's status.

(*e*) You have a working member of congress who will "kick your application loose" at critical times during the "review stage" to make sure that you are finally approved.

In the above manner cities were able to manage from project to project, and program to program. Our experience so far with Federal Revenue Sharing has been that we were a litle freer to provide planning for a total coordination of our community's development rather than on what is in the "vogue" with congress for funding for that particular year. It has enabled more critical needs to be met on a higher priority basis.

Revenue Sharing still forces us to choose projects and programs on a "forced priority" basis—use the Davis Bacon Act—Priority categories 1 through 14—etc. . . . We have overcome these categories somewhat by spending Revenue Sharing in Police and Fire operational budgets (category 1) to free General Operations Funds in order to avoid the 20–25% artificially inflated contracts bid under the Davis/Bacon Act and spending Revenue Sharing in "unauthorized" categories.

Those fourteen categories have required the City, under Federal Revenue Sharing, to spend money for financial administration—but not City Halls; for land acquisition—but not for certain construction upon that land; for equipment—but not for staffing the equipment; for some Capital Improvements—but not for maintenance of them; and for hardware—but not for personnel training and job development to utilize it.

Revenue Sharing should be lenient enough for municipalities to set up a management system amply supplied with finances to deal with this lack of uniformity that was characteristic of categorical grants.

Local government is much more efficient in spending tax money than the State or even the Federal government. It is close to the people and has to provide most of the direct services to them. If the "citizen's will" is not accomplished the legislative body is simply not reelected. (In Morristown, the Mayor and four Councilmen are elected each two (2) years. This means there are three (3) elections during one term of a U.S. Senator).

In Morristown, $1,681,950 of General Revenue Sharing funds have been spent through June 30, 1975, in ten (10) of the fourteen (14) categories (see exhibit I). You will note that the City spent 34.2% in Public Safety (28.8% in operations/5.4% Capital). The operation funds freed federal funds for the following projects: a.) bought 40 acres of Industrial land; b.) developed 120 acres of Industrial land with ARC; and c.) repaved taxiway at municipal airport with TBA.

You will further note in Exhibit I that the City spent 25.7% in Public Transportation (priority 3). This was used mainly to repave over 90 city streets affecting all citizens of the city. In priority two, 19.1% was spent locally on Environmental Protection. The City cleaned a digester at the sewage treatment plant and bought a dozer at the sanitary landfill.

Because the program has not been considered permanent, Revenue Sharing funds in Morristown have been considered as a "one shot revenue source." Seventy-nine percent of the funds were spent in the top three (3) priority categories. In no way could the City build these funds into the operations budget of the City!

There are some cities, however, that have used these funds in operations. If for some reason the congress does not reinstate the revenue sharing program

smoothly, ample time—even through present level funding being extended—should be given to all recipients in order to keep from having local budget crisis. Because if the program is not funded or if funding is delayed through congressional dilly-daily, local property taxes would have to be raised in time during the budget cycle to continue any programs established. (In Morristown, Revenue Sharing funds received amounts to approximately $25 per year on a $10,000 home).

We have identified priorities, determined their inner relationships through a long range Capital Improvement program and have the capability for possibly packaging them, by dividing each priority into component elements. These elements could then be eligible for separate state or federal categorical funding if only Federal Revenue Sharing could be utilized as "matching funds."

Our City like most cities, is a conglomerate of individuals who serve individual purposes. High priority is usually given to projects and programs with outside financial aid. This plays havoc with short range priorities. Again, because the Revenue Sharing program was considered temporary, the staff's normal Capital Improvement Program was interrupted by "elections promises," "unplanned projects" and projects by citizen petitions.

As I stated before, smaller cities are managed by crisis and are overly concerned with daily operations and putting out "brush fires." Each interest group in the community is preoccupied with their own unique achievements. Citizen participation as required and necessitated by the current federal bureaucracy simply means "the involvement of low-income minority group members in planning programs." This type of involvement is only one of the segments of citizen participation. However, it generally receives all the attention of federal legislative leaders over how much involvement is enough.

But low-income minorities are not the only citizen interest groups in a community nor are they the only group that has a stake in the decision being made by the community. There are industrial groups, religious groups, parental groups, business groups, civic groups all of who should all have an input into the decisions affecting the total community. All these interest groups are, I feel, embodied in the local elected representatives.

Nowadays, most citizens are not content with merely voting for their leaders and letting them make the decisions. People feel they are fulfilling their citizenship privileges when they force policy directly through letters to the editor, petitions, committees, "coalitions for causes," crowds and mobs. There will be citizen participation whether local government wants it or not! You can assure congress of this. The Revenue Sharing program so far has placed a heavy reliance on Morristown to define Community problems, to plan and program activities and to evaluate the results. Our City is attempting to build a management system with capabilities of studying these problems and relating them to financial resources.

We have a local saying that "we don't have any problems that money won't solve!" There will be citizen participation in meeting the problems without congressional guidance and additional expenses involved with public hearings above those already required locally on capital projects.

Now, what about local revenues needed to meet budgetary needs? Annual operations revenues should be adequate to meet daily needs. The main sources should not be unduly sensitive to major economic fluctuations and/or unstable. Locally we cannot deficit finance. We must present a balanced budget. Our local revenues cannot be harmful to the local economic growth or discriminatory in their nature. Local taxes are applicable only to very limited geographical areas with the result that differentials in the kinds and types of taxes used and administered and the rates at which they are imposed can have significant influence upon the locational decisions of people and industries.

The federal government on the other hand has greater access to more lucrative taxes (including the income tax) than cities, and it can more effectively administer taxes. The penalties for federal tax evasion are greater and are more respected. Federal taxes are more stable than local sources. The operation of the federal tax system is uniform throughout the nation and therefore, has a neutral effect upon the location of industry, businesses and individuals.

The federal government with income taxes, possesses more an effective means for redistribution of wealth. By necessity, local governments spend more money than they collect from local taxpayers due to more direct services being provided.

Federal Revenue Sharing could give poor cities a disproportionate share of revenues to increase their capabilities for providing needed services. Municipal problems should be shared by the state and federal government. However, if

Revenue Sharing is made permanent the criterion of not allowing the local tax effort and/or the property taxes to be lowered should remain in force.

The temptation by City Councils is to review budgets line item by line item and when the balance is critically close, cut capital improvements and equipment. There is a temptation for dropping taxes at the expense of capital improvements. In Morristown the Capital Improvement program was close to $1,000,000 per year in the late 60's, but, in the early 70's it dwindled by absorbing the Capital budget in operations to keep from raising taxes. In late 1973, after Revenue Sharing, the program was reinstated and is operating once again.

Through our experiences it is felt that Federal Revenue Sharing should be made permanent. The program should be inflation proof and the priority categories deleted. The program should allow the funds to be utilized as "matching funds."

If, however, congress insists upon having priority categories, Recreation should be lowered and no operational expenses allowed, Economic Development should be moved higher and funding should be allowed for general government staffs to do community planning and industrial recruitment. Health, Social Development, and Social Services should really be funded by a higher level of government or through the new Community Development program by HUD. Funds should never be allowed for Education, because eventually all funds would be spent locally in this category. (In Morristown the Education budget is 60% of a ten million dollar budget—Education is also 55% of property tax which is 25% of total budget.)

By way of these remarks, it is my high hopes that you receive them as representative of not only my City and my profession, but for most small cities in the United States. The ideas are not necessarily my own, but those derived through twelve years of municipal relationships.

Very respectfully,

RAYMOND D. SCHWEITZER,
City Administrator

EXHIBIT I

[In percent]

Priority and category	Capital	Operations
1. Public safety	8.4	28.8
2. Environmental protection	15.3	3.8
3. Public transportation	25.7	0
4. Health	.2	1.0
5. Recreation	.5	0
6. Libraries	0	2.7
7. Social services (aged or poor)	1.1	1.0
8. Financial administration	1.7	.02
9. General government	0	
10. Education	8.28	
11. Social development	0	
12. Housing and community development	0	
13. Economic development	0	
14. Other (equipment)	4.5	
Total	62.68	37.32

Priority			
City	Federal	Category	Percent spent
1	I	Public safety	34.2
2	II	Public transportation	25.7
3	III	Environmental protection	19.1
		Subtotal	79.0
4	X	Education	8.28
5	XIV	Other (equipment replacement)	4.5
6	VI	Libraries	2.7
7	VII	Social services (aged or poor)	2.1
8	VIII	Financial administration	1.72
9	IV	Health	1.2
10	V	Recreation	.5
—		Subtotal	21.0

Federal category and fiscal year	Capital	Operations
Federal category 1:		
1975	$13,960.63	$239,667.44
1974	69,966.44	240,419.49
1973	6,613.54	4,403.44
Total	90,540.61	484,490.37
Percent	5.4	28.8
Federal category 2:		
1975	134,494.76	28,000.00
1974	55,648.00	
1973	67,275.46	35,734.54
Total	257,403.22	63,734.54
Percent	15.3	3.8
Federal category 3:		
1975	431,794.82	
1974	829.50	
1973		
Total	432,624.32	
Percent	25.7	
Federal category 4:		
1975		10,293.70
1974	3,293.00	6,096.81
1973		
Total	3,293.00	16,390.51
Percent	.2	1.0
Federal category 5:		
1975	8,000.00	
1974		
1973		
Total	8,000.00	0
Percent	.5	
Federal category 6:		
1975		21,500.00
1974		25,000.00
1973		
Total	0	46,500.00
Percent		2.8
Federal category 7:		
1975	17,956.91	4,676.14
1974	889.87	13,200.00
1973		
Total	18,846.78	17,876.14
Percent	1.1	1.1
Federal category 8:		
1975	4,298.50	101.60
1974	23,533.51	263.12
1973		
Total	27,832.01	364.72
Percent	1.7	.02
Federal category 10:		
1975	42,214.28	
1974	42,214.28	
1973	51,625.56	
Total		
Federal category 14:		
1975		
1974		
1973	75,000.00	
Total	75,000.00	0
Percent	4.5	
Total	1,052,594.06	692,356.28
Percent total	63.0	37.0
Grand total	1,681,950.34	

STATEMENT OF JUDGE J. B. HOWE, COUNTY JUDGE, HAWKINS COUNTY, TENN.

First, if I may, I would like to introduce myself, I am J. B. Howe, County Judge and Fiscal Agent for Hawkins County, Tennessee. I am now serving in my tenth year in this capacity.

Hawkins County, Tennessee is located in the northeastern section of Tennessee and has a land area of 480 square miles with a population estimated in 1974 at 36,500. Within the boundaries of Hawkins County are five incorporated cities, namely, Rogersville, the County Seat, Bulls Gap, Surgoinsville, Church Hill and Mt. Carmel. I might add for the record, that Kingsport annexed in 1965, a portion of Hawkins County and as a result, Kingsport is the sixth incorporated city of Hawkins County.

Hawkins County, Tennessee is considered by many Regional Planners as being 60% rural and 40% urban and I also want to point out that industry thrives in Hawkins County, this industry being well diversified with several national and international corporations employing some 5,000 persons in industrial positions.

THE IMPACT ON LOCAL GOVERNMENT OF FEDERAL REVENUE SHARING FUNDS

Probably without a doubt the Federal Revenue Sharing Act of 1972 is in my opinion, the best assistance program ever enacted by the Congress of the United States. The enactment of this legislation has served a most worthwhile purpose, in that it has allowed local governments to ease the burdens imposed upon them by the many and complex problems facing local governments today. It is my belief and I feel that I speak for the citizens of Hawkins County, that Federal Revenue Sharing Funds are much more effective than many of the Categorical Grants simply because Federal Revenue Sharing Funds are available on a quarterly basis and can be budgeted annually and perhaps more importantly, Federal Revenue Sharing Funds are obtained without the hustle and bustle of Federal Government Red Tape—this is to say that it is not necessary to complete several applications, wait for their approval months later and in many instances, the filing of these applications requires technical and in-house staff assistance which is not readily available to many small local governments.

Perhaps to local government the most favorable aspect to Federal Revenue Sharing Funds is the fact that these funds are expended wisely contrary to the thinking of some members of Congress and as an example, I would like to point out that in Hawkins County the entire community has input into how our Federal Revenue Sharing Funds are expended.

In Hawkins County the Budget and Finance Committee has open and public hearings and these hearings are well attended by the general public. Areas of concern are discussed and input into our programs is made by citizens as well as public officials.

The Budget and Finance Committee having made its recommendations to the County Quarterly Court meets once again giving the citizens and public officials a second chance to voice their opinion in the expenditures of these funds. The citizens of Hawkins County have an input through their elected officials as to the budgeting of these funds and I might add that you can be assured that these funds will be budgeted in priority areas as designated by law and will be expended accordingly.

Categorical Grants are good and I have no fight with Categorical Grants, however it is my belief that Federal Revenue Sharing gives local government and its citizens direct input into the program areas while this is not always true of Categorical Grants.

The expenditures of Federal Revenue Sharing Funds in Hawkins County has in every instance been in the priority areas and have funded programs and provided service in;

Education

Construction of classroom, cafeteria equipment, classroom equipment and buses.

Law enforcement

Limited salaries, jail equipment and office equipment.

Transportation—Highways

Resurfacing of existing roads, construction of concrete bridges, rock, asphalt and construction of new roads.

Administration

Federal Revenue Sharing Funds expended for administration are less than 3% of the total budget while the nationwide average is 9%.

Library

Appropriations have been made for the acquisition of land and the construction of a public library, this being a joint effort, city-county.

Health services

Federal Revenue Sharing Funds expended for sanitary landfill operations and purchase of heavy equipment.

Welfare

Federal Revenue Sharing Funds for a Homemakers position.

Aged program

Expenditures of funds for a Senior Citizens-Nutrition Program.

Capital expenditures

Construction of new county jail, construction of city-county governmental building, heavy equipment and vehicles.

There have been many allegations that local governments have used Federal Revenue Sharing Funds to lower property tax rates, we do not believe that this was the intent of the Federal Revenue Sharing Act, in fact, to meet the increased demands on local government, we in Hawkins County have had property tax increases in excess of 50% over the past four years—that is not to say that Federal Revenue Sharing Funds have not helped to keep our bond indebtedness at a more equitable level.

I want to reiterate that Federal Revenue Sharing Funds have been a useful tool in providing local government the opportunity to meet our critical problems and demands for extended services and in some cases new programs which would ordinarily exceed the capacities of local governments.

I firmly believe that the Federal Revenue Sharing Act should be extended and refunded and I also believe that of the hundreds, perhaps thousands of Federal programs now in existence, the Federal Revenue Sharing Program more than any other Federal Program, meets the needs of local communities.

Again I want to state that most problems faced by local governments are fiscal problems and I firmly believe that Federal Revenue Sharing Funds have eased to some extent these problems and without a doubt, this a fact in counties with inadequate tax bases.

Of all Federal funds available to local governments, Federal Revenue Sharing Funds are the most flexible and by being flexible, these funds can be used to deal directly with the many problem areas faced by local governments.

In closing, I want to state that I feel as many public officials feel today, that to substantially change the present Federal Revenue Sharing Formula as to the distribution, may serve to defeat and bury the Federal Revenue Sharing Program and careful consideration should be given in this area.

TESTIMONY BY THE LEAGUE OF WOMEN VOTERS OF KINGSPORT-SULLIVAN COUNTY

Mr. Chairman, and members of the committee, I am Kathryn C. Bryant, President of the League of Women Voters of Kingsport-Sullivan County. We appreciate the opportunity to appear before this committee and share with you our information and views on the local use of Revenue Sharing.

Leagues across the country have been monitoring the use of RS funds in recent years. On the national level, a report entitled "Equal Opportunity Under Revenue Sharing" was released in August 1975 by a coalition group which included the League of Women Voters Education Fund. The results of this and the monitoring project of six state Leagues is currently being publicized.

Our local League has had a current interest in RS funds because of our study items on County Government, Environmental Quality, Human Resources, and Quality Education. Our recent attention to the Community Development Act and Title XX have added a dimension in understanding the unique role of Revenue Sharing. However, it was the invitation to appear before this committee which prompted us to gather specific statistical data on the local use of these funds.

PURPOSE OF REVENUE SHARING

According to the Office of Revenue Sharing of the Department of the Treasury, the basic purpose of RS is to "provide state and local governments with the opportunity and the money to deal with community problems at a local level." Below is our analysis of the local situation, specifics having been obtained from officials of both the city of Kingsport and Sullivan County.

THE AREA

Sullivan County maintains one of the highest per capita incomes in the state. During 1975 it has remained an island of prosperity in a sea of unemployment. While Sullivan County, in August of 1975, had the lowest unemployment rate in the state (5.4%), the First Congressional District had a rate of 9.2% with Unicoi County having experienced a high of 25.4% in June, down to 22% in August.

LOCAL GOVERNMENTS

The local use of RS necessitates a word about the different forms of government between Kingsport and Sullivan County. Kingsport has a city-manager form, a city planning department, and a seven member Board of Mayor and Aldermen. Sullivan County is headed by a parttime County Judge, a County Court composed of 48 magistrates and no central planning body. During recent years there has been an effort made for consolidation of more city-county services. The county has recently assumed responsibility for a county-wide ambulance service, a solid waste transfer station and disposal program, a County Youth Center, and the cost of indigent hospital care.

PLANNED USE PROPOSALS

Both the city and county have followed guidelines in advertising the Planned Use Report for RS. These have been run as legal notices in the classified ads section. (It would be interesting to see if there were more public involvement with the use of other news media.) Besides the publication notice, the city has held Public Hearings on its RS plans. In general, however, there is no evidence that either the city or county had any particular input from the public on the use of funds.

USE OF REVENUE SHARING BY KINGSPORT

Kingsport has used RS for capital expenditures. Funds from this source, since 1972, have comprised 4.8% to 6.5% of the annual budget. This has made it possible to keep the city tax rate at a more reasonable level.

Over one-third of all received and anticipated funds have gone for Environmental Protection, including flood control and a garbage collection truck. Recreation received about one-fifth with funds spent for a large, outdoor swimming pool and some construction work at Borden Park. Public Transportation has received another fifth of RS. This category covers the Sluice Bridge, work on Granby Rd., and the Clinchfield St. Ext. Public Safety funds were fourth in size with purchases of a new fire truck and traffic light included. The library received a small portion for renovative work.

While some of these items might have been "budgeted out" without the use of RS, others remained on a high priority list. The local community would possibly have addressed its local tax dollars toward completion of some of these.

City officials told us that they hope RS will be continued. They like the freedom of its decision making process and the option of deciding locally what is most needed. Input, by officials, seemed to come in a team effort approach. There was no indication that other categories such as health, education, social services for the aged and poor or housing and community development were considered under RS.

USE OF REVENUE SHARING BY SULLIVAN COUNTY

Sullivan County chose a different route for use of its RS funds. About half of the funds have been applied to operational expense with the remainder going to capital outlays of the Education Department and a county asphalt plant. Included under school expenditures were kindergarten equipment, stadium bleachers, lights and fences for tennis courts as well as funds for potential school land sites and related services. One fourth of all funds were applied (two

years) to the operation of the Sheriff's department (Public Safety) and the County Ambulance service, (Health). Other RS funds were applied to the solid waste disposal program. The county practiced some RS of its own with $2200 being allowed each (Social Services) of five county senior citizens' centers.

There was no indication that the county considered other programs for the elderly although a crisis situation in the shortage of nursing homes had been identified by County Court. As with the City of Kingsport, there was neither consideration or outside suggestion that RS be used for other social services for the aged and poor or housing and community development.

Sullivan County received its first RS funds in December 1972. County Court decided to apply these first funds to the 1972–73 operational expenses of the county. Thus, the tax rate was lowered 5¢, from $2.10 to $2.05. The domino affect was a reduction, that year, in the county's tax collection by over $350,000. The reduced tax effort was a factor in the subsequent reduction of RS funds. Although the county tax rate has since been raised, *anticipated RS funds for the current fiscal year are $400,000 less* than the peak receipts of the 1973–74 fiscal year. In other words, RS funds for 1975–76 are anticipated to be only 1.8% of the budget as compared to 4.8% in 1973–74.

This use of RS funds, plus current inflation, and new budget costs have had a see-saw impact of a 25% increase in the tax rate (from $3.14 to $3.96) for the 1975–76 fiscal year. One member of County Court, who expressed pleasure over the freedom of RS decisions, said, "I believe we have learned our lesson" with regard to the use of RS for operational costs. All of the anticipated RS funds for 1975–76 have been allotted for capital outlays for the purchase of school sites.

QUESTIONS ABOUT REVENUE SHARING

At this point, we are in no position to make recommendations on a national level about the continued use of RS funds. Our local contacts have raised some questions which seem pertinent to the on-going effectiveness of RS. These include:

(1) How widespread has been the use of RS for operational rather than capital outlay purposes?

(2) Should more responsibilities be required of local and state governments to enjoy the privilege of RS?

(3) Should RS guidelines emphasize more long range planning?

(4) If stronger guidelines are drawn to assure compliance with the original purpose of RS, will it be genuine RS?

(5) Is the federal government fiscally better able to meet local needs than are local and/or state governments?

(6) How could there be better coordination and less overlapping of RS with other federal programs?

STATEMENT OF MAYOR RICHARD E. BEVINGTON, KINGSPORT, TENN.

Senator Brock, I would like to commend you for conducting these hearings to hear views of local government leaders on the impact of the general revenue sharing concept upon the functions of local governments. It is well that these government officials should be heard in these meetings, for it is the local government leaders who can attest to the importance of the general revenue sharing funds in maintaining and expanding community services.

In our City of Kingsport, revenue sharing funds have enabled the City to begin a program plan to correct a hazardous flood plain area, known as the "Mad Branch" area, and thus prevent additional hardship on the residents of that area, brought about during times of heavy rainfall. In addition, revenue sharing funds have been spent to repair and expand the City's street and road system, thus providing residents a more accessible flow of traffic to and from various parts of the city. Furthermore, revenue sharing funds have been used to construct a municipal swimming facility for City residents, replacing an antiquated facility of smaller design, thus allowing many who previously had no access to swimming facilities a place to go and enjoy swimming.

I believe that in the City of Kingsport revenue sharing funds have contributed to a general improvement in the community environment, and has, in my

opinion, allowed the City to initiate and to complete projects that, without the availability of revenue sharing funds, would have found itself hard pressed and very possibly unable to undertake at the time.

In addition, the revenue sharing funds have provided the citizens of Kingsport relief from rising property taxes. This is evident in the fact that since 1972, the first year of revenue sharing, through 1975, the base rates have been held to a very minimum increase. If revenue sharing funds had not been available during this period, the City surely would have had to increase taxes to fund the projects initiated.

Furthermore, general revenue sharing funds precluded the possibility of issuing municipal bonds, which given the present condition of the municipal bond market, would be quite costly for the City.

I strongly support the continuation of revenue sharing in its present form, and would encourage increased effort against any attempt to weaken the program with additional guidelines and restrictions. Furthermore, I firmly believe that in most instances the concept of revenue sharing has justified the original expectations of its supporters.

The revenue sharing concept has proven to local officials that it is a far better program than the narrow, constricting, categorical grant programs of the past and is, in fact, superior to the new Community Development block grant program, which along with funds, brings an endless list of bureaucratic forms, reports, evaluations, and the like.

It would be most unfortunate if the general revenue sharing program would evolve into another categorical grant program.

I commend you on introducing legislation to extend revenue sharing and make it a permanent program and offer you my continued support.

APPENDIX A

Breakdown of general revenue sharing fund expenditures for the city of Kingsport fiscal year 1972-73 through fiscal year 1975-76

Environmental protection (drainage)	$1,359,680
Public safety	92,500
Parks and recreation	606,339
Streets and roads	641,049

RESULTS OF SENATOR BILL BROCK'S REVENUE SHARING QUESTIONNAIRE

1. Do you support renewal of the Federal general Revenue Sharing Program? (Numbers below percentages are actual count.)

Yes, 98 percent (14,844). No, 2 percent (280).

2. Do you think the Revenue Sharing program should be changed?

Yes, it should be made permanent—10 percent.

Yes, it should be inflation proof—8 percent.

Yes, it should involve less red tape—18 percent.

Yes, other suggestions—6 percent.

Yes (total) 42 percent (6,350). No 56 percent (8,647).

3. Does the Revenue Sharing program allow the state and local officials to use funds in the most needed programs?

Yes 94 percent (14,167). No 6 percent (940).

4. Is the Revenue Sharing program important to your government?

Yes 96 percent (14,439). No 4 percent (598).

5. What priority would you assign to the Revenue Sharing program?

1st 70 percent (10,562); 2nd 11 percent (1,559); 3rd 3 percent (473); Other 16 percent (2,327).

6. Would your government have to raise taxes without Revenue Sharing?

Total projected tax increase without Revenue Sharing?

0-5 percent, 8 percent; 5-10 percent, 9 percent; 10-20 percent, 23 percent; and over 20 percent, 48 percent.

Yes (total) 88 percent (13,283). No 12 percent (1,876).

7. Would your government have to cut back programs without Revenue Sharing?

Area of projected cuts?

Social 27 percent. Safety 28 percent. Capital Improvements 45 percent.

Yes (total) 92 percent (13,775). No 8 percent (1,217).

Questionnaires mailed—35,000.

Returns (to date) 15,124.

STATEMENT OF HON. FRANK HORTON

The Senate Finance Committee is to be commended for moving to consider extension of General Revenue Sharing.

The establishment of the Federal income tax has permanently limited the available tax resources for State and local governments. In my view, revenue sharing represents the most significant change in Federal-State-local relations since the enactment of the progressive income tax. It provides financial aid to State and local governments which can be used for the many services these governments must perform and does this in a manner free of federal strings so characteristic of programs.

Since its inception in 1972, the General Revenue Sharing program has proven itself to be one of the few Federal programs that has provided in reality many benefits that the supporters of the legislation had anticipated:

It has brought government closer to people by providing Federal support for programs deemed to be essential at the local level;

It has balanced out the Federal domestic aid structure by providing a modest amount of unencumbered Federal aid to match the mountains of specialized categorical programs;

The program has done more than any other single program to revitalize the decentralized American Federal system by placing faith and dollars in the hands of local government and;

The program has contributed significantly in lessening the very severe impact of the recent recession on many local governments and taxpayers.

There are few Federal domestic aid programs as well liked as the revenue sharing program. The Subcommittee on Intergovernmental Relations and Human Resources of the Government Operations Committee held 16 weeks of hearings under the very able leadership of Representative L. H. Fountain. Late in the hearing process, we heard from the panel of witnesses representing the ADA, Catholic Charter, the League of Women Voters, and the Chamber of Commerce. Although this diverse panel disagreed as to how the program should be structured, they all agreed that the program should be continued.

We must renew the revenue sharing program this fall. To not do so would be to ignore the fiscal plight of local government and to tarnish one of the brighter spots of our domestic aid programs.

Since the need for the reenactment of revenue sharing is clear, I would like to address the balance of my remarks to the nature of that reenactment. The real debate surrounding the reenactment of revenue sharing is not whether the program should be continued, but rather the form that the program should take.

The Subcommittee on Intergovernmental Relations and Human Resources held extensive markup deliberations and produced after several months of careful consideration of a bi-partisan bill that addressed and satisfactorily answered many operational criticisms of the current program.

During the markup, the subcommittee and full Committee very carefully considered a number of proposed formula changes. These included:

(1) Broadening the definition of tax-effort to include non-tax revenues such as water, sewer and sanitation charges;

(2) Eliminating the distinction between townships and municipalities;

(3) Lowering or eliminating the 50 percent budget constraint;

(4) Removing the 20 percent lower constraint;

(5) Changing the ⅓–⅔ State-local split;

(6) Substitutes for per capita income the number of individuals below the poverty level;

(7) Changing the sequence of the application of the 20 and 50 percent rules; and

(8) Increasing the $200 dollar minimum entitlement.

All of these changes, after thorough analysis, were rejected. These changes were rejected because they often caused serious inequities and created more problems than they solved. I urge that your Committee not change the formula unless those changes have been given very serious and close study. I am confident that when any proposed changes are studied, the Committee will arrive at a conclusion similar to ours: that the formula is basically equitable and works well.

The bill produced by the House was a compromise among those forces wishing a simple extension of the program basically in its present form; those forces wishing to drastically alter the program by turning it into an instrument for

the reform of certain State and local government activities; and, those forces wishing to simply terminate the program. Since it was a product of compromise, few of the House Members were entirely satisfied with all the provisions of the bill. Yet, it was compromise in the tradition of the democratic process—a compromise that brought conflicting sides together in agreement on basic provisions.

While I support the House-passed bill, I am not in sympathy with all its provisions. Specifically, I urge that the Committee seriously consider extending the program for 5¾ years, and reinstating the 150 million dollar annual increment.

I am, furthermore, very concerned that we not load the revenue sharing program with all kinds of paperwork and red tape, or unduly meddle in the affairs of local government. I urge that we retain the uniqueness of the revenue sharing program which is its simplicity and flexibility. I urge that we not turn the revenue sharing program into a piece of reform legislation designed to extend Federal control over the activities of local government.

In closing, I would like to state a simple fact that must be borne in mind during consideration of amendments. Half of the recipient governments receive less than $7,000 per year. Clearly, for these governments as red tape, paperwork and the cost of administering the program increase their interest in the program will very quickly diminish. If Congress is not careful in the amendments it chooses to accept, we may find that after a year or so has passed, many of the recipient governments that revenue sharing was designed to help will have dropped out of the program.

STATEMENT OF HON. JOHN W. WYDLER

I applaud the efforts of the Senate Finance Committee to move quickly to extend the State and Local Fiscal Assistance Act of 1972. The House of Representatives overcame substantial obstacles to approve a continuation of the program.

As a sponsor of the House approved measure, I was pleased with that extension. Compared to some of the radical proposals which were offered during the extensive hearings conducted by the Intergovernmental Relations and Human Resources Subcommittee, the House approved bill is remarkably free of major changes.

I personally hope that the Finance Committee and the Senate will approve an extension of the General Revenue Sharing program that is very close to the bill proposed by President Ford. The President's proposal called for an extension of the program for 5¾ years with an annual increase in the amount of funds to be distributed of 150 million dollars.

The House passed version established the funding level at an annual rate of $6.65 billion with no annual increment. The existing program growth of $150 million does not keep up with inflation, and the lack of any additional funds for the period of extension of the program will force recipient governments to either reduce services or increase their limited sources of revenues. I would also urge the Finance Committee to carefully examine any proposals which would further restrict the use and flexibility of General Revenue Sharing funds.

While some changes are necessary in the reporting, auditing and citizen participation provisions of the existing law, it is my view that these should not substantially vary from the State and local procedures that are already in place.

During the period when some of these modifications were being considered by the House Committee on Government Operations, numerous local governments indicated that they would be forced to refuse any revenue sharing funds because the new administrative requirements would cost more than the amount of funds to be received from the program.

The Federal Government has frequently legislated only for larger units of governments. Smaller units, particularly those outside metropolitan areas, operate with part-time officials, many of whom are on a volunteer basis. To force such governments from the one Federal program responsive to their needs, because of unnecessary and burdensome restrictions would be a serious breach of faith to the American taxpayer.

I strongly urge that the Members of the Senate Finance Committee approve an extension of the General Revenue Sharing program that is responsive to the needs of local government. That can only be accomplished by a bill which is without unnecessary restrictions and administrative requirements.

STATEMENT OF THE NATIONAL COUNCIL OF JEWISH WOMEN

The National Council of Jewish Women, with 100,000 members in local communities across the United States, has been concerned for 83 years with the interrelationship of government policy and needed services. At our Biennial National Convention in San Francisco in March 1975, the following national resolutions were adopted:

V. ECONOMIC POLICY

The National Council of Jewish Women believes that the economic priorities, policies and programs at all levels of government should be designed to develop our full human, social and economic potential.

We Therefore Resolve:

1. To urge formulation and implementation of government policies and legislation which: (a) Examine and revise government spending, giving priority to human needs and services; (b) Utilize sound planning for economic growth, stability and expanded opportunity; and (c) Ensure full employment with safeguards against inflation.

4. To work for tax reforms based on the ability to pay.

Within a week after the Congress passed the State and Local Fiscal Assistance Act on October 10, 1972, the National Council of Jewish Women spoke out: The National Board issued a topical statement and a memo was sent to State Legislation Chairwomen (now called State Public Affairs Chairwomen), urging them to alert their Sections to speak out so that these funds would be used in the States, counties and municipalities to meet "people needs." In many communities our Sections actively participated in the efforts to have local and State governments utilize these new funds for human services, in line with the priorities listed in the Act.

The extent of citizen participation has depended on the existing patterns for local budget-making in which most decisions are made by department heads in the executive branch and sent to the legislative body for hearings and final approval. The resulting spending patterns clearly indicate that general revenue sharing funds have not been used to replace reduced Federal funding for human services.

A quick survey of the NCJW State Public Affairs Chairwomen in October 1975, in preparation for this statement, brought information on a wide variety of local and State experiences across the country, through which run several common suggestions for change:

(1) There is need for clarification of Congressional intent. If the intent is to use revenue sharing funds in specific program areas without the rigidity of categorical grants, then it should be set up similar to the block grant approach of the Housing and Community Development Act. If the intent is to assist with local fiscal problems, then it should be a direct grant with as few strings as possible, except for specific guidelines on citizen input.

(2) Formula allocation must reflect the responsibility and the need of the local government—county, city, township, village. In many States suburban and rural towns incorporated to become eligible for general revenue sharing funds, which were then used for landscaping, tennis courts, and other "extras", while impacted city low income areas with responsibility for delivery of services had proportionately little extra assistance.

(3) Specific guidelines are needed for the citizen participation in decision-making, similar to those developed for Title XX of the Social Security Act. In addition, monitoring of the citizen participation should be mandated.

(4) To most effectively use revenue sharing funds for services, the accounting/report system must be simplified to reduce cost.

(5) Consideration should be given to using general revenue sharing funds as matching funds for Federal grants, as is the case with funds from Housing and Community Development Act.

(6) Clarification is needed on affirmative action guidelines. There is great confusion as well as resistence to current implementation.

(7) Inflation is swallowing up the initial effects from the use of general revenue sharing funds to stabilize or reduce local tax rates. General revenue sharing funds are considered directly responsible for prevention of bankruptcy/default in several large cities and for allowing counties and municipalities to continue services and building needed facilities without exceeding charter debt limits.

Specific information that led to these conclusions is given later in this statement. But first, we would like to comment on some of the current suggestions for amending the Local and State Fiscal Assistance Act of 1972.

We strongly support certain of the amendments contained in H.R. 13367 as passed by the House of Representatives:

(1) Citizen participation: (a) specific requirements for citizen participation including two public hearings by both State and local governments during preparation of proposed use plan and as a part of regular budget preparation, as well as the opportunity to submit written comments

(b) expanded reporting requirements which will make possible more meaningful citizen participation

(2) Non-discrimination: (a) expansion of prohibition of discrimination to include age, handicap, and religion

(b) specific time limits for investigation and determination of complaints of discrimination and for compliance audits and review, with suspenson of new funds 90 days after a finding of discrimination if compliance has not been secured.

(c) limit of 60 days for administrative remedies of complaint before aggrieved individual may institute civil action.

(3) Independent audits.

(4) Elimination of the matching prohibition.

We are disappointed that the House bill does not include funding for court awarded attorneys' fees. Such provision is not for the benefit of lawyers, but for the benefit of the victims of discrimination, and exists in most civil rights statutes. Such fees could be limited only to revenue sharing monies.

But our greatest disappointments are that there has been no effort to rectify the distribution formulas within the states to see to it that those localities with with the greatest need have additional fiscal assistance, and that there will be no opportunity for Congressional oversight.,

(1) *Need for clarification of Congressional intent.*—While Congressional committee reports and debate indicate that the State and Local Fiscal Assistance Act was intended to produce more effective use of Federal funds for specific local needs, listed in the Act, no mechanism was established for prioritization or for citizen participation in such prioritization (see (3) below). Our report from Oregon indicates that local reports on allocation of funds are worthless: "It does not show where the money is spent. It is a numbers game played by the City of Portland to satisfy the government." Similar reactions came from Pennsylvania and from other states. The State of Ohio allocated its general revenue sharing funds to the general fund, with about 5 percent of each department's operating expenses covered by GRS.

(2) *Change in formula allocation to reflect responsibility and need.*—A variety of significant considerations were cited as indicating need to change the formula allocation to reflect the responsibility and the needs of the local government—county, city, township, village. In New York State general revenue sharing has not provided the same relief for local governments indicated in other states, because it is the only one in which the local social services district must bear 25 percent of the cost of AFDC and Medicaid. This burden falls on the county governments except for New York City, which bears the burden for the five counties within its boundaries.

Pennsylvania also sees the need for a poverty-weighting factor to govern the distribution formula so monies can be used to serve human needs. Delineation must be made as to which unit of government has responsibility for delivery of services to the poor. In Pennsylvania while Pittsburgh, for example, has a concentration of the poor, it is Allegheny County which has responsibility for health and welfare services.

In Oregon the counties have received the "lion's share" of GRS and they provide most human services, except in metropolitan areas. But in many states there were reports of incorporation of suburbs and rural areas to become eligible for GRS. In Kentucky an affluent suburb incorporated as a 6th class city and used its funds for shrubbery and other frills for the subdivision, which has no responsibility for delivery of services.

What constitutes "tax effort" has also come under criticism. For example, the city of Hartford, Connecticut, pays sewer charges to a metropolitan sewer district. This is not considered as part of the local tax effort for GRS. Yet, in other communities where it is called a "sewer tax," it is included. Certainly, Hartford's sewer charge is paid by local property taxes.

The allocation of State GRS funds is, of course, dependent on State budgeting procedures. In Connecticut, according to our correspondent, rural domination of the state legislature has counted against the metropolitan areas. It is used mostly for capital outlay and equipment, especially to counter inflation.

(3) *Specific guidance for citizen participation in decision-making.*—The degree of citizen participation in the decision-making process on spending of GRS funds varied widely within states and from state to state. The lack of delineation of the process is in marked contrast with the mandated procedures for the more recent Title XX of the Social Security Act. Most elected officials indicate that by virtue of their election, the citizen participation has taken place. In most instances, the citizen participation occurs at the budget hearings after the budgeting decisions have been made by the executive branch. When there is an active, knowledgeable citizen's group, the open budget hearing does provide an opportunity for action. In New Orleans in 1974, a citizen's coalition (which included NCJW) was vocal and prevented a budget cut for the Council on Aging.

In Oregon there was diverse citizen participation in the four cities. Apparently, the determination of the Mayor and his staff in Tacoma was responsible for active citizen participation in 1974. But for 1975 department heads recommended that GRS be used to balance the budget rather than continue social services, fought by citizens. In Portland where GRS funds were part of the budget with no separate citizen input, the Mayor for the first year appointed 125 citizens to five task forces to decide where to use the revenue sharing funds. For the second year, the department heads hand-picked their own task forces, with only 9 from the previous year. There were resignations, a general feeling of being used, and wide variation in the delineation of each task force's responsibilities, with some unaware that they were expected to issue a report.

In Hartford, Conn., a Citizens Assembly was appointed, which was not considered very effective. In West Hartford, citizen input was possible only at regular budget hearings. Reports from one county in New Jersey indicated that there was no citizen participation in either county or town budget process.

In Pennsylvania there is a recommendation from a state legislator that there be a process for state review because there is no citizen recourse if there are objections to a locality's use of the GRS funds. Moreover, since the law does not stipulate or mandate public hearings, in many jurisdictions, there are none. Voluntary agencies and citizen coalitions strongly recommend that mandated citizen participation be part of the new legislation.

Perhaps the best documentation of a genuine effort for citizen participation in the decision-making process in revenue sharing allocations came to the National Council of Jewish Women from a national director, Jeanne D. Dreifus of Memphis, Tennessee, who was named to a 15 member Interim Social Service Planning Committee by the Quarterly County Court of Shelby County, Tennessee, in October, 1974. Mrs. Dreifus, a graduate student in political science, described in a paper the decision process by which recommendations were made for the spending of $1 million of additional general revenue sharing funds, not previously used for services to the poor and aged, and then surveyed the members as to how they viewed the process:

The overall assessment seems to be that the committee viewed its job seriously. Some were afraid that the whole affair was predetermined by decisions made by the Court [the county's administrative body]. *No one* felt that pressure had been exerted on them to support a project, however, which they did not feel able to reject. People felt frustrated at the lack of time and organizational skills to give more attention to individual proposals. One member became very disillusioned with the project and with the 'average public to govern itself. I think that serving on this committee had to be the most disillusioning experience of my life. The bias... was incredible. Despite the above, however, the three projects selected were all excellent, and this is the only thing that restores my faith in the democratic system... in the final analysis, through trade-offs and compromise, this biggest hodge-podge of humanity reached a decent decision.' [end of quotation from member].... Finally, the first choice... was a comprehensive service project in a large waste-land area of the County.

Perhaps elected officials intuitively fear the disillusionment of the public when citizens participate in the process of prioritizing needs and in assessment of proposals. Certainly, many seem to have little confidence in such grass-roots participation.

(4) *Simplification of the accounting/report system.*—There is conflict between the desire to cut administrative costs to use funds for services and the need for accountability. Initially, Oregon cut state accounting and report costs by using all GRS funds for education, requiring only an accountant part-time. Arizona found that 5% of the funds received had to be spent on accounting/reporting. In Tucson, it was felt that money spent for financial administration could be put to better use.

In New Orleans initially all GRS funds went for capital expenditures, cutting accounting costs. This changed when there was a shift to using GRS to fund part of the operating budget for police and fire protection. The next shift is expected to be to environment protection (health and sanitation).

On the other hand, in Pennsylvania one state legislator feels that there must be specific guidelines so that GRS monies are spent on trackable benefits, as in New Orleans, rather than being included in the general budgets of local communities where it is difficult to tell the purpose for which they are used.

(5) *Use of GRS funds as match for Federal grants should be permitted.*—There has been considerable criticism expressed because general revenue sharing funds cannot be used by the State to generate Federal dollars as the state match for grants. Denver, Colorado, has ear-marked GRS funds for an Emergency Home Maintenance Program which would benefit the poor and minorities, but there is a legal question as to whether GRS can be used as a local share for Housing and Community Development programs. Consequently, the funds have not been spent yet.

In Pennsylvania, GRS funds were spent for two years to help day care facilities comply with the state Life Safety Code. For the third year it was intended to use the funds to expand day care services as the State share for federally reimbursed day care services, currently not allowed. This issue becomes increasingly important as the current fiscal crisis reduces available state and local funds used to match badly needed Federal grants programs.

(6) *Affirmative action guidelines which can be monitored.*—In general, local officials are positive that there has been no discrimination in the use of funds, but concerned citizens have a different view. In Portland, Oregon, citizens consider this difficult to asses, since there has been no publication of the location of the capital expenditures so that a judgment could be made.

In Pittsburgh a member of the City Council noted that there had been charges of discrimination and lack of affirmative action by the police department, but he thought that this had been cleared up. But an involved community leader (professor of social work) indicated that there is need for mandating monitoring at both the federal and local levels to guard against discrimination on public employment and private contractors working on public projects using GRS funds. The Pennsylvania state legislator interviewed also spoke of the need for a strictly supervised non-discrimination clause, as in other Federal regulations.

In Cleveland, Ohio, nearly all of the GRS funds are being used his year for safety forces. Our reporter noted that "there are no clear lines of accountability, and no way to determine if the funds are handled without discrimination."

Repeatedly, it was noted that since the GRS funds are not trackable because they are incorporated in the general fund, there can be no accountability for the general nondiscrimination clause in the State anl Local Fiscal Assistance Act. But where discrimination has been suspected, there is general concensus that the Treasury Department and the Office of Revenue Sharing should not have the responsibility for monitoring and enforcement, since they are not equipped for this role.

(7) *GRS funds have stabilized or reduced local tax rates.*—Mayor Moon Landrieu of New Orleans, president of the National Conference of Mayors, publicly stated at the Joint Program Institute of the National Council of Jewish Women in Washington, D.C., on October 28, 1975, that many cities, including New Orleans, would have been right alongside New York in default if it had not been for revenue sharing, because of a decreasing tax base and increasing costs and demand for services. The NCJW Louisiana State Public Affairs Chairwoman reported that in New Orleans GRS is now being used where needed "like plugging holes in a dam." It has kept down local property taxes and prevented an increase in the 6% sales tax.

Revenue sharing has had a measurable affect on property taxes in Connecticut. In 1972–73, 29/133 towns lowered the Grand Levy and the rate of growth of local property tax was slowed from 7.2% in '71–72 to 1.9%. But in 1973–74,

the local property tax levies were up 6.7%. In '74–75, 25/58 towns reporting indicated that GRS funds would reduce the amount of the rate of increase and an additional 21 indicated that it would prevent an increase. West Hartford used GRS funds for capital outlay and equipment to cover inflation.

In Portland, Oregon, the budget officer indicated that the local tax rate is somewhat lower due to GRS, but expects it to be swallowed up in the nflationary spiral and not make much of an impact on costs.

But all local officials want general revenue sharing continued.

In summing up, general revenue sharing has not provided the new money originally anticipated when proposed. Historically, the Federal government has been much more responsive to human needs than local governments, and this has clearly been demonstrated in the minimal allocation of GRS funds for these purposes.

STATEMENT OF BOB BULLOCK, TEXAS STATE COMPTROLLER OF PUBLIC ACCOUNTS

As the chief financial officer of the State of Texas, I am writing you on behalf of the citizens of Texas to express our support for general revenue sharing.

As you may know, Texas has not had a unanimous record of support for general revenue sharing by our congressional delegation or Governor. In 1972, when revenue sharing was originally debated, our congressional delegation voted overwhelmingly against it, and recently 14 of our 24 Representatives voted against HR 13367. Our Governor has been extremely reluctant to support the extension of revenue sharing, although he has thought of all kinds of ways to spend our State's share.

Despite such lack of support by our members of Congress and Governor, the people of Texas and local officials enthusiastically endorse the program.

I have been told by many sources, including the news media, state and local lobbying organizations, and Texas' Office of State-Federal Relations, that revenue sharing is a "sure thing" for renewal. I certainly hope this is the case. If it is not, there will be a lot of Texas cities and counties faced with unexpected tax increases, drastic cutbacks in services, or both.

All Texas counties and most cities are required by law to file a copy of their budgets with my office. My staff informs me that a great many of these local governments are budgeting revenue sharing funds beyond December 31. Since revenue sharing accounts for 15–20 percent of the average Texas local government's revenues, termination of this program would create a severe financial crisis for many Texas cities and counties.

For over a year my staff has been evaluating the impact of the general revenue sharing program on Texas; they have closely monitored congressional actions concerning proposed changes in the program. Although HR 13367 is not a perfect piece of legislation, we feel that it is basically sound.

I am sure that every state and local government could propose sweeping changes in the revenue sharing program and allocation formula which would benefit their own parochial interests. In Texas, we have our own ideas about how the allocation formula should be structured, but at this point in the legislative process we see no usefulness in expressing them.

Since the Senate has such a small amount of time to consider revenue sharing, it is unlikely that you and your fellow Senators will have opportunity to consider all the proposals that were considered in the House. Therefore, I ask that you at least consider three important alterations in the program which are supported by state and local officials nationwide.

First, revenue sharing should be renewed for a longer period of time than the 3¾ years extension called for in HR 13367. Realistically, you cannot effectively manage a city, a county, or a state without making long-range plans. Since revenue sharing is such an important source of revenue, city and county officials should be given opportunity to plan for the use of these funds beyond 1980.

In Texas, over two-thirds of the revenue sharing funds coming to local governments have been used for capital expenditures; only 2 percent has been used for social services for the poor and aged. In my opinion, if revenue sharing were extended for a longer period of time, local officials would be more willing to commit such funds to the "people" programs that so many revenue sharing critics talk about.

At the very least, I hope that revenue sharing can be extended for 5¾ years.

The second change in HR 13367, which I feel is necessary, is a $150 million annual increase in the program's level of funding. Inflation has taken its toll on state and local governments over the past 5 years. In fact, since 1972 revenue sharing has barely enabled state and local governments to keep pace with the ever-increasing costs of goods and services. A $150 million annual increase amounts to slightly more than 2 percent. With inflation projected at 5 to 7 percent next year, this minimal increase is essential.

The third change is that the 145 percent limitation should be raised. In Texas, the jurisdictions which are limited by the 145 percent ceiling are primarily located in the Rio Grande Valley and East Texas. These areas have high concentrations of minorities, some of the worst poverty in the nation, and suffer from a paucity of resources to finance local governments.

The President's proposal to raise the 145 percent limitation 6 percent annually until it reaches 175 percent would greatly benefit these poverty-stricken areas, while the loss of funds by the richer localities in Texas would be minimal. Therefore, I hope your committee seriously considers the possibility of raising the 145 percent ceiling and improving the intrastate distribution character of the allocation formula.

In addition to these proposed changes, I would like to express my wholehearted support for some of the improvements in the original GRS program that are proposed in HR 13367. These are the citizen participation provisions, strengthened civil rights enforcement, lifting of the matching prohibition, and the elimination of the priority categories. These changes indicate to me a responsiveness on the part of the Congress to reflect the desires of citizens in this country.

It is my belief that the changes are worthwhile and their benefits heavily outweigh the inconvenience of added administrative requirements. Also, the special provision to assure that senior citizens be heard in the hearings on the use of revenue sharing funds is a very worthwhile provision and should be retained.

The elimination of the matching prohibition and priority categories goes a long way toward making this program truly "general" revenue sharing.

Texans account for nearly 6 percent of this nation's population, and there are over 1,300 Texas cities and counties which receive revenue sharing. These people and their local officials firmly support the renewal of general revenue sharing. Therefore, I ask that this statement be entered in the written testimony of your committee hearings as evidence of Texas' support for revenue sharing.

STATEMENT OF TOM JENSEN, MINORITY LEADER, TENNESSEE HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Committee. My name is Tom Jensen. I am the minority leader of the Tennessee House of Representative and president of the National Conference of State Legislatures. I am pleased to take this opportunity to present some of my concerns for the re-enactment of the revenue sharing program which is presently before you as H.R. 13367.

State legislators first endorsed the concept of revenue sharing over ten years ago. The National Conference of State Legislatures continues to strongly support the revenue sharing program. We have worked closely with representatives from the other state and local government organizations to insure its success and advocate its renewal.

State legislatures have consistently demonstrated faith in local governments' ability to carry out certain responsibilities and serve the needs of the people through a number of State revenue sharing programs. We believe that our political subdivisions can be trusted to spend their money wisely and responsibly, and we have not been disappointed. State aid to political subdivisions has increased substantially over the years. The State governments' share of State-local general expenditures from their own funds has increased from 46.4% in 1954 to 55.5% in 1976. I urge you to similarly recommit yourselves to strengthening this sense of trust and cooperation between our levels of government, through the re-enactment of Federal revenue sharing program which would rely on the laws and procedures used by your State and local governments.

The administration of the revenue sharing program should be designed, as closely as possible, to function within the established procedures of recipient

governments. Language to this effect would give impetus to a more efficient and effective program. To achieve this goal the National Conference of State Legislatures feels that certain provisions of the re-enactment legislation, H.R. 13367, require careful reconsideration.

1. Reports on the proposed use of funds should not be based on Federal operating procedures. Most State and local budget cycles do not coincide with the entitlement periods of H.R. 13367. All hearing, publication, and reporting requirements should be linked to the recipient government's fiscal year and total budget process.

2. The conference agrees that citizen input into proposed legislation is an essential part of its effective development. That is the very nature and purpose of a State legislative body. The State legislative appropriations process is similar to that of Congress. Public hearings are held and, with few exceptions, meetings of the committees are open to the public. The public has adequate opportunity to provide input into the budgeting process of State legislatures through hearings before legislative committees. Many States have enacted "Sunshine" laws requiring all public meetings to be open. The National Conference of State Legislatures endorses that concept and has encouraged all States to develop legislative procedures which are more accessible to the public. Therefore, further guidelines or restrictions by the Federal Government to achieve this purpose are unnecessary at the State level. We recognize through our experience that public participation cannot be guaranteed by open meetings or public hearings. You should recognize that congressional efforts to achieve greater public participation through mandated reports and hearings will not necessarily insure such participation either. I hope we can work together on these requirements so that they are not burdensome or duplicative, but are adaptable to existing hearing and reporting procedures at the State and local levels. Specifically, section 121(c)(2) which concerns pre-budget hearings, would require special sessions before the entire State Legislative with opportunity for a question and answer session. Such a procedure is not generally permitted throughout the 50 States. Hearings on the budget currently are held before the appropriate legislative committees. A requirement for special inquiry on the budget before the entire legislative body is not currently required or practiced by any State, or by the U.S. Congress.

I would like to focus briefly on the program's operation. The program has worked well for nearly five years and I feel that certain aspects of the program should not be changed. The National Conference of State Legislatures does not endorse any change in the formula provisions of H.R. 13367. A study done by the advisory commission on intergovernmental relations found that the present formula provided "a significant percentage of intergovernmental fiscal equalization". We support long-term, multi-year funding for the program. We urge that the new legislation provide for renewal of the revenue sharing program at least two years in advance of its expiration, so as to allow adequate preparation of State and local budgets. The National Conference of State Legislatures strongly advocates that an annual increase, provided for in the current law, be reinstated at a rate of about six percent per year, to overcome the costs of inflation.

I have stated for over a year now that criticism of the revenue sharing program has actually been criticism directed at the operation of State and local governments. The National Conference of State Legislatures rejects the perception that this legislation should become a vehicle for social and governmental changes. General revenue sharing can not realistically be expected to cure all the ills of State and local govenment. Rather than merely expanding the civil rights enforcement capabilities of the office of revenue sharing, we urge that your committee recommend a study to develop a uniform set of civil rights guidelines for all the Federal programs. We further suggest that a single Federal enforcement agency be designated to address the problems of administering the civil rights laws.

The National Conference of State Legislatures urges your consideration of our remarks, and we hope that Congress will expeditiously continue this effective and cooperative program.

I would like to express to Senator Russell Long the conference's appreciation for his support of the revenue sharing program since its earliest days. I would also like to thank my own Senator William Brock who has been so active and very helpful to us in the development of this vital program.

NATIONAL RECREATION AND PARK ASSOCIATION,
Arlington, Va., August 25, 1976.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: The National Recreation and Park Association appreciates the opportunity to comment on legislation to extend and amend the State and Local Fiscal Assistance Act. NRPA, largely representing the public park and recreation sector, earlier this year completed an analysis of the State and Local Fiscal Assistance Act, specifically as the Act is utilized to support public park and recreation systems and services.

Based on these findings and other observations, NRPA strongly supports both the extension of the State and Local Fiscal Assistance Act, and the continued designation of recreation as a priority program category. The latter point is of critical importance in the allocation and use of funds.

We strongly urge also that park and recreation districts be deemed eligible direct recipients of revenue sharing funds.

The NRPA analysis was based on a survey distributed to 500 randomly selected local general purpose governments, state park and recreation agencies, and park and recreation districts, the latter not now direct recipients of revenue sharing funds.

The survey revealed that sixty-three percent of the park and recreation agencies providing facilities and services as a function of municipal or county government received general revenue sharing funds.

Illustrating the critical importance of GRS in support of new or expanded recreation programs, ninety-one percent of those responding to a question on alternate sources of financial support indicated that other funds would not have been available to provide services or facilities made possible by GRS.

Sixty-two percent of the respondents indicated that the designation of "recreation" as a program funding objective was either of "critical importance" or "of high importance".

Capital investments for parks and recreation facilities were the most frequent use of general revenue sharing, with 30 percent of the respondents reporting this as top priority. Other uses in order of expenditure included: operations and maintenance, 20 percent; land acquisition, 13 percent; salaries, 12 percent; and programs and services for special populations (aged, handicapped and others), 9 percent.

The allocation of GRS for recreation purposes was influenced by several factors. Forty-two percent identified "elected officials" as "playing the most important role" in revenue sharing allocation decisions; 30 percent identified a "coalition of public servants"; and 15 percent indicated that "citizen action and support" was the greatest influence in GRS use. Assuming that "elected officials" largely represent citizen interests in any given community, this category may be combined with direct "citizen action". This indicates that some 57 percent of the allocation decisions were directly influenced by participatory government processes.

Meeting the recreation demands of an industrialized society is an increasingly important public function. Cultural events, programs for youth, the aged, and handicapped are only a few of the programs made possible by the addition of GRS funds to the local government budgets.

That recreation is important, is borne out by the actual usage of GRS funds. According to the Office of Revenue Sharing, in FY 75 more than $880 million was spent on recreation, an increase of almost $83 million from FY 74. FY 75 expenditures for recreation amounted to 5 percent of revenue sharing funds used by all reporting units. However, local communities spent 7 percent of their funds on recreation ($347 million). Further, recreation ranked seventh in expenditures among the 15 categories listed.

The question of GRS support for "special districts" is of major concern in the park and recreation field. In states and regions where the park and recreation district is a common form of local government a majority are providing recreation services and facilities in lieu of the general purpose governments. Unfortunately, while eligible for direct grants under earlier categorical programs, these special units of government have not been strongly supported by the general purpose governments which they serve, despite "pass through" provisions of existing law and regulations. Although 63 percent of the park and recreation units of general purpose governments received GRS funds, this figure dropped to 33 per-

cent for park and recreation districts. Despite this situation, all special district respondents indicated that the designation of recreation as a priority spending category was "of critical importance".

We strongly recommend that the committee carefully examine the special district issue and rectify existing inequities in GRS allocations. It is instructive to examine the scope and magnitude of special district operations generally, and recreation and park districts specifically.

The great majority of special districts are relatively small scale operations; only 12.5 percent had more than five full-time employees and 26 percent had debts of more htan $100,000. Almost 70 percent served areas of less than 10 square miles. Thirty-three percent of all special districts are found in Standard Metropolitan Statistical Areas.

Where park and recreation districts are a more common form of government they provide essential municipal and county government functions. In Illinois for instance, they are chartered by the state and are governed by elected boards. They levy taxes to provide their operating budget; and normally do not receive funds from any other municipal unit. In addition to providing basic park and recreation services, most maintain a separate police force, perform street and roadway maintenance, and provide water and lighting. Three Illinois park districts own and operate airports. Most park districts are separate and independent corporate entities with a capacity to sue and be sued; they have the power to promulgate ordinances and maintain legal staff to prosecute violations. In the case of Illinois park districts, they perform substantial "governmental functions" as do other municipalities, but they are correspondingly denied the revenue sharing "rebate" that the other governments enjoy. Special park/recreation districts in the states of Oregon, Michigan, Ohio and California perform similar governmental functions and face the same inequities in terms of GRS use.

While the Census Bureau has opposed "opening" general revenue sharing to every special district, we believe narrowly drawn legislation could overcome these concerns and limit excessive dilution of general revenue sharing resources. Various legislative options appear to exist.

One approach would make eligible for direct GRS funds those special districts providing services identified in existing Section 103 as "priority expenditure" categories, i.e., recreation districts). Under this option the amount of the grant could be proportional to the GRS allocations to the general purpose governments served by the park and recreation district or the relative budgets of the governmental units. Another possible approach would direct general purposes units of government to allocate GRS funds to special districts providing recreation at a rate not less than the national average use of GRS funds for recreation, presently 5 to 7 percent. A third possible alternative is to restrict GRS allocations to certain types of special districts, essentially those which, but for the appellation "district", would otherwise essentially meet the test of general purpose local government for revenue sharing purposes. Under this option, eligibility could be established based on an indicator of public service activities—number of full time permanent employees, number of functions provided, total operating budget, number of persons served, level of long term indebtedness, and other factors. Alternately, a district chartered by state government could be considered eligible for direct receipt of GRS resources.

We hope you will find these views helpful as the Committee considers amendments to the State and Local Fiscal Assistance Act. Barry Tindall and Beth Kravets of our Office of Public and Environmental Affairs will be happy to work with the Committee and staff in any appropriate way.

Sincerely,

JOHN H. DAVIE, *Executive Director.*

[Mailgram]

ROCKWALL, TEX., *August 23, 1976.*

COMMITTEE ON FINANCE,
U.S. Senate,
Washington, D.C.

GENTLEMEN: The city of Rockwall, Texas, supports in principle the revneue sharing program passed by the House of Representatives earlier this summer.

The Rockwall City Council by this letter urges the Senate Committee on Finance to recommend that the Senate approve the extension of this revenue sharing program which is in essence an extension of the existing program. Should the Senate fail to approve an extension of the revenue sharing program, this city wishes to go on record as stating that Federal taxes should be reduced in a way that would make it possible for State and municipal governments to increase their local revenues in a reasonable amount in order to continue programs and improvements that would otherwise be financed by revenue sharing.

HARRY S. MYERS, *Mayor.*

[Mailgram]

PENNSYLVANIA STATE MAYORS ASSOCIATION,
Bethel Park, Pa., August 24, 1976.

MICHAEL STERN,
Staff Director, Committee on Finance,
Washington, D.C.

This will acknowledge receipt of your mailgram received by us 8-23-76, notifying us that the committee would be unable to permit our State organization to testify regarding Federal revenue sharing. Our concern is with the smaller communities throughout the Nation and it is too bad Mr. Stern that you or Senator Russell Long could not provide us with 15 or 20 minutes to explain our position on the small communities. For your information, there are roughly 15,000 such communities throughout U.S. We are now in the process of forming a national mayors association covering the 50 States and will probably emerge with 12 to 15,000 mayors. We would like this mailgram to go into the record and we are forwarding under separate cover a copy of our June 23 mailgram and a letter to Senator Taft. Please inform Senator Long and his committee members we do need help throughout the Nation for our small communities. Also ask the Senate Finance Committee to consider tion to testify regarding Federal revenue sharing. Our concren is with the incorporating into the law that the mayor who is the chief executive officer must sit down with council and approve or reject the way the money is to be spent for each community. Council members do not do this now. We are very grateful to you and Senator Long for any help you may lend.

PETER J. PAGE, *Mayor.*

STATEMENT OF JACK WALSH, SUPERVISOR, COUNTY OF SAN DIEGO, CALIF.

Mr. Chairman, I take great pleasure in appearing here today to testify in support of the renewal of the General Revenue Sharing Program. The County of San Diego believes that the Revenue Sharing Act did exactly as intended, i.e., helped assure the financial soundness of local governments which have been and are continuing to struggle in meeting the financial problems brought about by the need for public services. Both the need and the costs for these services have been increasing at an alarming rate. Therefore, we will be urging that the program be continued with no major modifications in its present form.

The County of San Diego will have received about $72 million during the five-year General Revenue Sharing program. These monies have been utilized or planned for three primary purposes:

(1) about 25% of the 5 year total to fund selected areas of high need human care services for the minorities, poor, and elderly through contracts with community based agencies. In terms of a current annualized expenditure it should be emphasized that almost 50% of the County's yearly entitlement is now being used for this purpose.

(2) approximately 50% to fund high priority capital or land acquisition projects which materially improve the delivery of services for human resources, justice, sanitation, and recreation.

(3) about 25% to achieve a necessary decrease in the tax rate while still meeting the increased demand for services related to the slowdown of the economy.

As a means of illustrating the importance of these monies to the County, I would like to discuss these three major purposes for which the funds were used. The first relates to the area of human needs.

In 1973, after enactment of General Revenue Sharing, the County of San Diego embarked on a unique experiment in the development of a human care service delivery system directed at the needs of the minorities, poor and elderly. Many of the existing programs serving these needs faced termination because of cutbacks in categorical grants from HEW or the Department of Labor. In addition, there were a number of "community based" agencies providing social and health programs. These programs were funded from a variety of sources, but many were competing for funding through public welfare funds (Title IVA and XVI) as well as other public and private resources. The availability of revenue sharing funds made it possible to not only continue these services but also, through a contractual relationship, determine whether the community based services could be more efficient and effective than direct service delivery by local government.

The first step, which required the cooperative effort of local government officials, both elected and appointed, was the establishment of a process to determine the immediately essential public needs and provide for the allocation of revenue sharing funds to those community agencies best qualified to fill those needs. An essential element in the initiation and continuation of those Human Care Services Program was the extensive citizen participation and input in the planning process. The various community organizations, citizen groups and service providing agencies proposed over 300 programs for a full range of social and health services. After several public hearings and extensive staff review, 168 high priority programs were selected for funding with revenue sharing funds. These funds, in excess of $6.5 million in a single program year, represented almost 50 percent of County government's annual entitlement. Although this was well above the national average for social services which has been estimated to be about two percent, it was still well below the level represented by community resources. Therefore, a more sophisticated priority setting and planning process was implemented in order to make critical program choices and assuring that the funding from both public and private sources, was coordinated and thus focused on the highest priority needs.

The implementation of the refined priority setting process in January 1975 has resulted in increased citizen input, more accurate data regarding key public needs, the services most appropriate to address such needs and further, it provides the framework for the optimum allocation of the scarce revenue sharing funds. Yet, this is but one innovative process resulting from the availability of revenue sharing funds to serve the public need.

In 1975, our Human Care Services Program began a thorough review of all service activities in the County and initiated the development of a five year plan to integrate such services into a total, Countywide system. This will involve services supported by County departments such as Welfare, Probation, Public Health, plus the Area Agency on Aging, Substance Abuse, and other. In addition, the Program will continue to utilize one of the most open planning and review processes to be found in government. All decisions pertaining to the Program were developed and reviewed under the guidance of a policy committee composed of two County Supervisors and four community representatives. All policy committee meetings were open to public participation and comment, and at least twenty hours of public hearings were conducted during a six month period. All staff recommendations were subject to an appeals review by an independent panel to assure fairness, accuracy, and to make appropriate exceptions to policy.

Finally, the Program has demonstrated fiscal and program accountability stndards which are becoming the model for other County departments. For example, each service provided under contract is subject to a monthly program budget which is directly linked to a "scope of service" which clearly defines what the program must deliver. The budget is broken down into unit costs so that program comparisons will be possible in terms of program quality and unit costs. Also, each program will be reviewed within an evaluation system which will rate performance in relation to fifteen program variables and will assure quarterly and annual program evaluations.

While the planning and administrative features of the Human Care Services Program are unique, it is important to realize that we are testing a system of community-based services to ascertain the feasibility of replacing centralized, public departmental services with localized public and private efforts. Currently, the program supports the following types of services: child day care, substance abuse services, senior citizen programs, community clinics, multi-service centers

for ethnic minorities and the aged, legal assistance, and others. If the "Revenue Sharing Act" is not renewed in a form that will enable San Diego County to continue the effort previously described, two important things would be lost. First, the County would be unable to maintain support of the community-based services under the Human Care Services Program without a significant increase in local taxes. Last year, the County faced a $36 million cost revenue gap as we entered the budgeting process. While many cuts in services and County activities were necessary, it was determined that the experiment with community services was essential, and no cuts were made in that budget. Next year, the budget picture appears equally bleak; and if revenue sharing funds are not forthcoming, the community may well lose a valuable set of programs meeting human needs. Second, the innovative developments of the Human Care Services Program in the areas of services planning, allocation systems, evaluation, and the leadership in the development of a total service system would be diminished. Of course, some of the leadership could be transferred to other County Departments. However, the one unique feature which has made this program so effective . . . the partnership between the community and the County . . . would be lost since the resource base would not be available.

Mr. Chairman, in addition to providing direct services which address essential community needs, General Revenue Sharing enabled us to initiate the implementation of a long overdue capital improvement program. In the minds of many, both in and out of government, a capital improvement program is too often considered purely as a "bricks and mortar" proposition. However, most such programs ultimately result in the improvement or initiation of a needed service to the community or an increase in efficiency in the rendering of such service. This was certainly the case in the County of San Diego.

Prior to the enactment of General Revenue Sharing, we had been deficient in establishing and maintaining a realistic capital improvement program. During the period 1969–1973, we had devoted considerable effort in measuring the County's requirements and projecting these needs into the immediate future. In the Six Year Capital Improvement Program for 1968–74 and the three year Capital Improvement Program, 1972–75 we identified a necessary expenditure of $67,985,000 to keep pace with public service demands from 1969 to 1974. In this same period, however, the inability to finance a capital program through the County General Fund was evidenced by the total capital projects budget for this period totaling only $4,963,674. The difficulty in finding other suitable financing methods was demonstrated in 1971 when a $86,000,000 General Obligation Bond issue failed to meet voter approval. I believe that these financing difficulties which attended our efforts to keep pace with requirements for additional space to accommodate the increasing demands for public services are not unique to the County of San Diego. Our inability to finance an adequate capital program resulted in leasing programs and long-term financial arrangements, both of which proved to be costly alternatives which could not replace a balanced capital improvement program.

With the advent of General Revenue Sharing, the County of San Diego was finally permitted some welcome flexibility with respect to financing of necessary capital improvements. I would like to emphasize, however, that citizen input and the public hearing process played a major role in determining the type and scope of capital projects to be financed with revenue sharing funds. A committee composed of elected officials and community representatives performed a lengthy and detailed analysis of the County's Capital Improvement needs. Their recommendations were reviewed and further refined during the public hearing process. Capital projects approved for financing with revenue sharing funds are continually reviewed with respect to both cost and their projected benefit to the community. As of this time, approximately 50% of the County's revenue sharing funds have been utilized or planned to fund high priority capital or land acquisition projects which materially improve the delivery of services for human resources, justice, sanitation, and recreation.

As I noted earlier, Mr. Chairman, most capital improvement programs ultimately result in the improvement or initiation of a needed service to the community. This can be characterized by the following sample of capital needs in the County of San Diego which are currently being funded through General Revenue Sharing:

(1) New Court and Correction facilities which will help speed up and improve the judicial process.

(2) Regional Service Centers to provide citizens better access to County services and information.

(3) Modernization of existing general government facilities to restore and improve their suitability for use in meeting citizens' demands for services.

(4) Parklands which preserve environmentally sensitive areas and ensure adequate recreational facilities for an expanding County population.

(5) Solid Waste Disposal Projects which include studying ways of making more efficient use of solid waste.

(6) Flood Control projects designed to prevent damage to property and also encourage business and light industrial development which in turn helps stabilize the economy of the region.

Mr. Chairman, we firmly believe that these expenditures are much more than "bricks and mortar". They are vitally needed to provide the services required by our citizens and would not be made available were it not for General Revenue Sharing.

And lastly, I would like to discuss tax relief made available by General Revenue Sharing to citizens who are seriously overburdened with taxes. The current economic recession with the combination of continuing inflation and high unemployment has seriously taxed County resources. These conditions are directly related to an increased demand for certain categories of services which the County is mandated to render regardless of the state of the economy.

The law enforcement and judicial systems must respond to increasing crime problems while the social and health service systems provide financial aid or other services to those who are out of work or whose incomes cannot cover basic needs. Even with assessed valuation in the County increasing at an average annual rate of 13% since 1970, property tax revenues, particularly during the recessionary times, are not keeping pace with increased costs for essential services. In 1975–76 without Revenue Sharing, the tax rate, with major increases in services to the needy, would have had to be increased by 23¢ which would have been a considerable burden on the local taxpayer. By using Revenue Sharing to directly finance a portion of the increased costs in these areas, we were able to provide some tax relief to the taxpayer with a 7-cent reduction in the rate.

In the 1976–77 fiscal year, even though revenue sharing funds were not directly used to finance the substantial increases in the public protection and social services area, the tax rate, in absence of the final entitlement ($7.9 million) would have been 18¢ greater than the currently anticipated 20¢ reduction in the rate from the prior year. The alternative, of course, would have been a drastic reduction in essential human care services and capital improvements in support of County services.

With respect to the General Revenue Sharing allocation process, we have examined many of the studies and research efforts regarding the formula. As a result we have reached the conclusion that the present formula is fair. With what appears to be fairly rare exceptions, it provides the funds to those areas and local governments experiencing the needs which the Act was intended to address. Therefore, we recommended that it be left unchanged.

Mr. Chairman, I have outlined the County of San Diego experience with Revenue Sharing funds in addressing the public needs in three critical areas:

(1) Human Care for the minorities, poor, and elderly.

(2) Capital Improvement program considered essential to the delivery of public services.

(3) Relief for the taxpayer whose burden is recognized by all levels of of government.

Without Revenue Sharing the County of San Diego would be faced with the untenable alternatives of 1.) termination of programs, both human care and capital improvement, considered vital to the well being of our citizenry or 2.) raising the property tax rate, the regressive nature of which has become as notorious as that of the sales tax.

Mr. Chairman, these alternatives are neither pleasant nor unique to the County of San Diego. I am sure that there is a long list of local governments facing this same dilemma. We strongly urge the reenactment of General Revenue Sharing.

STATEMENT BY ILLINOIS SMALL BUSINESS MEN'S ASSOCIATION

This is a rebuttal to a WLS–TV editorial on Federal Revenue Sharing. The speaker is Ira Latimer, Spokesman for the Illinois Small Business Men's Association.

"WLS–TV urged all Chicagoans to write their federal representatives for an extension of the federal revenue sharing program. We urge viewers to oppose this. If Chicago and the politically powerful big cities want more money for their city services, then use zero budgeting annually to make each city department cut political waste.

"Federal aid to education is now in the billions. It is resulting in a massive tax base exodus of workers and industry following federal court ordered hiring, housing, and bussing as the price of revenue sharing.

"HEW has set the poverty level at $6,500 for a family of four and forces big cities to pay exorbitant relief which has attracted welfare claimants in a massive migration into the big cities.

"Revenue sharing of Environmental Protection Agency billions includes the 'political porkbarrel' public works sewer construction. Chicago Sanitary District officials were recently indicted for allegedly defrauding the Federal Government and taxpayers of millions. No wonder urban finance is in trouble.

"Under revenue sharing the Federal Law Enforcement Assistance Administration has given billions to the big cities to reduce crime. In spite of these billions, crime has increased.

"HUD has spent billions on public housing and urban development in the big cities resulting in the destruction of three times as many housing units as HUD has built.

"Small businessmen and farmers fear wasteful and inflationary government spending. We demand budget cuts and tax relief—not greater spending by the bureaucrats. We are the ants; they are the grasshoppers."

(The above rebuttal was telecast at various times during the week of July 26, 1976.)

STATEMENT OF THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL–CIO

During its nearly four years of operation, the general revenue sharing program has stirred much controversy. Many arguments have been made that revenue sharing dollars have been misspent, that wealthy jurisdictions have received unwarranted allocations, and that civil rights enforcement has been inept and inadequate.

There is some validity to these charges. The basic elements of an acceptable general revenue sharing legislation must include a strengthened Federal Government role in setting standards for employee protection, civil rights, and tax reform for state and local governments. In addition, the allocation formula must be changed in order to ensure that funds are targeted to areas with the greatest needs for providing public services.

This approach toward restructuring of the general revenue sharing program is preferable to many of the other reform plans on several counts. It recognizes the fungibility of general revenue sharing dollars and avoids the futility of attempting to determine exactly how these funds are being spent. At the same time, it provides strong federal leverage to ensure that state and local governments comply with federal standards as a condition for receiving otherwise untied federal dollars.

In addition to extending the labor protections that exist in the present legislation, AFSCME believes that all state and local governments comply with the Fair Labor Standards Act as a pre-requisite for receiving general revenue sharing dollars. Presently many of these jurisdictions claim that the Federal Government has no right to impose uniform minimum wage standards on the state or local government workforce. We insist that if these governments accept federal dollars, they must likewise accept federal standards for employment.

Under the current statute, civil rights enforcement has been inept. The fact that enforcement authority rests with an understaffed office in the Treasury Department leads to the inescapable conclusion that the last two Administrations have placed a very low priority on effective civil rights' safeguards. We feel that a shift in enforcement responsibility to the Department of Justice is a logical change. However, given the current Administration's record of commit-

ment to the enforcement of civil rights, effective protection is unlikely to be achieved.

During the debate that preceded passage of general revenue sharing legislation in 1972, there was considerable congressional support for rewarding those states which raised tax revenues in a progressive fashion. The bill that finally passed contained a provision which marginally rewarded states with personal income tax structures. AFSCME recommends that this modest tax reform element be expanded significantly. While in Congress, Governor Hugh Carey of New York sponsored a general revenue sharing program which would have eliminated shares for state governments. Although AFSCME shares the conviction that many state governments—even under leadership of the "new breed" of governors—have been unresponsive to many pressing public service needs, we feel that cessation of general revenue sharing aid to the states is not timely. However, we do feel that each state's entire allocation should be based solely on its willingness to raise revenues via progressive tax structures. The States could continue to share one-third of the total revenue sharing allocation, but the formula used to determine individual state shares should be based on various tax reform elements. These might include the adoption of graduated income taxes, a "circuit breaker" mechanism for property tax relief, and sales tax credits or exemptions of necessities from the sales tax base. States whose tax structures contained all of these elements would receive large allocations; states with outmoded, regressive revenue systems would get nothing. Additionally, such a program might compensate the local governments within states that have received very small allocations.

One of the major shortcomings of the current intrastate allocation formula is its inability to target funds to jurisdictions where the demand for public services are higher in proportion to available local resources. AFSCME recommends the following modifications as a means of correcting this shortcoming:

(*a*) Replace the current poverty formula with a measure of persons living below the poverty level;

(*b*) Define the poverty level in urbanized areas as a 125% of the standard measure;

(*c*) Eliminate the 20% floor for receiving general revenue sharing allocations;

(*d*) Raise the 145% limit to 300% of the statewide per capita average;

(*e*) Eliminate the prohibition against using general revenue sharing dollars to match other federal dollars.

AFSCME views these broad considerations as being the most important areas for change in any extension of the general revenue sharing program. These elements include fair employee protections, better civil rights enforcement, a strong tax reform element, and an improved allocation formula for local governments. General revenue sharing programs can play a potentially critical role in stabilizing state and local government budgets during periods of depressed economic activity. The improvements we support would serve to strengthen this role significantly.

TOWN OF MONTCLAIR,
BOARD OF COMMISSIONERS, DEPARTMENT OF PUBLIC WORKS,
Montclair, N.J., August 24, 1976.

Re: H.R. 13367.

Mr. MICHAEL STERN,
Staff Director, Senate Finance Committee, Dirksen Building, Washington, D.C.

DEAR MR. STERN: I trust your Mailgram of August 20 which denied my request to testify on General Revenue Sharing will not preclude the Committee on Finance from amending H.R. 13367 to incorporate the language of the Minish Amendment in accordance with my statement of August 16. Five copies of this statement have been submitted to the Committee.

The Minish Amendment would eliminate the "Township Inequity" in the four States of Massachusetts, New Jersey, Rhode Island and Wisconsin. These are the only States suffering from this inequity under present legislation. This inequity cries out for correction.

The defeat of the Minish Amendment in the House of Representatives was due in part to doubts about the breadth of its applicability. It is now clear according to the enclosed letter of June 10, 1976 from Mr. Vincent P. Barabba, Director, Bureau of the Census to the Honorable Joseph G. Minish, that the proposed amendment applies only to Massachusetts, New Jersey, Rhode Island and Wisconsin. The fact that it almost applies to several other states is immaterial. It actually applies to just the four States and none other.

The Congressional delegations of these four States favored the Minish Amendment by a vote of 24 to 9. It is unfortunate that the Minish Amendment was defeated by the delegations of the States in which it did *not* apply, perhaps because of confusion about its applicability, which now has been resolved.

Confirmation by the Committee on Finance from the Bureau of the Census and the Office of Revenue Sharing of the limited four-State applicability of the amendment should be persuasive to the Senate and subsequently to the Senate-House Conference Committee.

The Minish Amendment would:

1. Eliminate gross inequities by providing even handed allocations according to their data elements for similarly situated, general purpose municipalities in the four States where "Townships" are indistinguishable in function from other municipalities. Allocations in the other 46 States and Washington, D.C. would be unchanged.

2. Provide about $500,000 additional revenue sharing for Newark, New Jersey, without depriving any other local governments in the same County of allocations that can be justified based on their data elements.

3. Provide for a change in the definition of "Township" as it applies to these four States only. The broadly applicable General Revenue Sharing allocation procedure and formulas would continue without change.

The Committee on Finance has before it the final opportunity for the next 3 years and 9 months to eliminate the "Township Inequity". Without this amendment many municipalities in the four States will seek relief through their State legislatures for changing to or from Township status to secure the revenue sharing allocations to which they are equitably entitled. Incorporation of the language of the Minish Amendment in the renewal legislation will obviate the need for such costly and otherwise unnecessary name changes.

Justice and equity require the passage of this Amendment. I urge the Committee on Finance to give the Amendment its ringing approval.

Sincerely yours,

RICHARD I. BONSAL,
Commissioner.

Enclosure.

THE MINISH AMENDMENT TO H.R. 13367

Section 108(d)(3) of the Act is amended as follows:

"(3) TOWNSHIPS.—The term "Township" includes equivalent subdivisions of government having different designations (such as "Towns"), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes, but shall not include any subdivisions of government located in States which have the entirety of their territorial limits divided into general purpose municipalities and townships (as defined by the Bureau of the Census for general statistical purposes), none of which overlap."

Whereas, an amendment to the General Revenue Sharing Renewal Legislation was proposed by Congressman Joseph G. Minish to correct substantial inequities in the distribution of funds to municipalities designated as "townships," and

Whereas, the adoption of this amendment would not affect interstate allocations among the 50 states and Washington, D.C., nor the intrastate allocations down to the county government level in any of the 50 states, nor the intrastate allocations in any states other than Massachusetts, New Jersey, Rhode Island and Wisconsin but would remove in those states the inequitable distribution of Revenue Sharing funds between "townships" and other municipalities; now therefore,

Be it resolved by the Board of Commissioners of the Town of Montclair, in the County of Essex, that this Board unanimously urges and supports the passage into law of the aforesaid amendment; and

Be it further resolved that the Clerk of the Town of Montclair be and she hereby is directed to forward a certified copy of this resolution to the members of the Senate Committee of Finance; Senator Clifford P. Case; Senator Harrison A. Williams, Jr.; Congressman Joseph G. Minish; Governor Brendan T. Byrne; Carmen A. Orechio, Carl A. Orechio, and John N. Dennis, Members of the New Jersey Legislature.

I hereby certify the foregoing to be a true copy of a resolution adopted by the Board of Commissioners of the Town of Montclair, in the County of Essex, at a meeting held August 24, 1976.

CONSTANCE B. ARNOTT,
Clerk of the Town of Montclair, N.J.

TO: THE SENATE COMMITTEE ON FINANCE

RE: RECOMMENDATION TO AMEND

THE

GENERAL REVENUE SHARING RENEWAL LEGISLATION (H.R. 13367)

SUBMITTED BY

COMMISSIONER RICHARD I. BONSAL
DIRECTOR, DEPARTMENT OF PUBLIC WORKS
TOWN OF MONTCLAIR, NEW JERSEY

AUGUST 1976

76-811 O - 76 - 15

TOWN OF MONTCLAIR
NEW JERSEY
BOARD OF COMMISSIONERS
DEPARTMENT OF PUBLIC WORKS

OFFICE OF
RICHARD I. BONSAL
DIRECTOR

AUGUST 16, 1976

To: THE SENATE COMMITTEE ON FINANCE
2227 DIRKSEN BUILDING
WASHINGTON, D.C. 20510

RECOMMENDATION TO AMEND

THE

GENERAL REVENUE SHARING RENEWAL LEGISLATION

(H.R. 13367)

RESPECTFULLY SUBMITTED,

Richard I. Bonsal

COMMISSIONER

TABLE OF CONTENTS

RECOMMENDED AMENDMENT TO THE GENERAL REVENUE SHARING RENEWAL LEGISLATION (H. R. 13367)

I. INTRODUCTION:

My name is Richard I. Bonsal. I am a businessman, and also a Commissioner of the Town of Montclair in Essex County, New Jersey, where I serve as Director of the Department of Public Works and formerly served as Director of the Department of Revenue and Finance from 1972 until May of this year.

From the time when Montclair first was advised that its General Revenue Sharing estimated 1972 allocation would be $507,687 and then that it would be $292,026 (final allocation received - a disappointing $167,377), I have maintained a keen interest in this Program and its application to our Town[1]. It is still a matter of concern that Montclair's allocations since the inception of the Program have been inordinately low in comparison with our needs. Nevertheless it is my present feeling that our receipts do, in fact, reflect the Congressional Intent, with the exception of the effect of just one provision of the existing Law - the definition of the term "Township".

I submit that this one provision of the Act has inadvertently frustrated the Congressional Intent. Due to a quirk of ambiguous nomenclature, different methods of allocations are required among similarly situated municipalities

---

[1] Appendix H, page 19

WITHIN COUNTY AREAS IN THE FOUR STATES OF MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN, ACCORDING TO THE ACCIDENT OF WHETHER OR NOT THESE MUNICIPALITIES HAPPEN TO BE CALLED TOWNSHIPS - DESIGNATIONS WHICH WERE AFFIXED LONG BEFORE THE ADVENT OF GENERAL REVENUE SHARING. IT IS INCONCEIVABLE THAT THIS "TOWNSHIP INEQUITY" COULD REFLECT THE CONGRESSIONAL INTENT.

II. THE MINISH AMENDMENT:

ON JUNE 10, 1976, CONGRESSMAN JOSEPH G. MINISH OFFERED AN AMENDMENT TO THE GENERAL REVENUE SHARING RENEWAL LEGISLATION (H.R. 13367) WHICH WOULD HAVE REDEFINED THE TERM TOWNSHIP TO ELIMINATE THIS "TOWNSHIP INEQUITY". EVEN THOUGH THE MINISH AMENDMENT WAS FAVORED 24 TO 9[2] BY THE DELEGATIONS OF THE FOUR STATES IT WOULD HAVE AFFECTED, THE AMENDMENT UNFORTUNATELY WAS DEFEATED BY A VOTE OF 229 TO 158.

FAILURE BY THE SENATE TO INCORPORATE THE LANGUAGE OF THE MINISH AMENDMENT IN THE FINAL RENEWAL LEGISLATION WILL PERPETUATE FOR ANOTHER THREE YEARS AND NINE MONTHS THE "TOWNSHIP INEQUITY" THAT HAS AFFLICTED US FOR THE PAST FIVE YEARS, DURING WHICH CERTAIN MUNICIPALITIES - IN FOUR STATES - THAT ARE TOWNSHIPS IN NAME ONLY HAVE RECEIVED WINDFALL ALLOCATIONS AT THE EXPENSE OF THEIR NEIGHBORS.

III. RECOMMENDATION:

I RESPECTFULLY URGE THE SENATE COMMITTEE ON FINANCE TO AMEND H.R. 13367 TO INCORPORATE THE LANGUAGE OF THE MINISH

---

[2] Appendix A, page 12

AMENDMENT WHICH STATED:

SEC. 13, SECTION 108 (D) (3) OF THE ACT IS AMENDED AS FOLLOWS:

"(3) TOWNSHIPS. - THE TERM "TOWNSHIP" INCLUDES EQUIVALENT SUBDIVISIONS OF GOVERNMENT HAVING DIFFERENT DESIGNATIONS (SUCH AS "TOWNS"), AND SHALL BE DETERMINED ON THE BASIS OF THE SAME PRINCIPLES AS ARE USED BY THE BUREAU OF THE CENSUS FOR GENERAL STATISTICAL PURPOSES, BUT SHALL NOT INCLUDE ANY SUBDIVISIONS OF GOVERNMENT LOCATED IN STATES WHICH HAVE THE ENTIRETY OF THEIR TERRITORIAL LIMITS DIVIDED INTO GENERAL PURPOSE MUNICIPALITIES AND TOWNSHIPS (AS DEFINED BY THE BUREAU OF THE CENSUS FOR GENERAL STATISTICAL PURPOSES), NONE OF WHICH OVERLAP."

IV. WHAT THE PROPOSED AMENDMENT WILL NOT DO:

1. THE PROPOSED AMENDMENT WILL NOT AFFECT INTERSTATE ALLOCATIONS AMONG THE 50 STATES AND WASHINGTON, D.C. EACH WILL RECEIVE THE SAME INTERSTATE ALLOCATION IT WOULD HAVE RECEIVED WITHOUT THE AMENDMENT.

2. THE PROPOSED AMENDMENT WILL NOT AFFECT INTRASTATE ALLOCATIONS DOWN TO THE COUNTY GOVERNMENT LEVEL IN ANY OF THE 50 STATES. EACH COUNTY AREA AND COUNTY GOVERNMENT WILL RECEIVE THE SAME ALLOCATION IT WOULD HAVE RECEIVED WITHOUT THE AMENDMENT. (WASHINGTON, D.C., OF COURSE, HAS NO INTRASTATE ALLOCATIONS.)

3. THE PROPOSED AMENDMENT WILL NOT AFFECT INTRASTATE ALLOCATIONS IN ANY OF THE 46 STATES OTHER THAN MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN. ALL LOCAL GOVERNMENTS IN THESE 46 STATES WILL RECEIVE THE SAME ALLOCATIONS THEY WOULD HAVE RECEIVED WITHOUT THE AMENDMENT.

V. WHAT THE PROPOSED AMENDMENT WILL DO:

1. THE PROPOSED AMENDMENT WILL AFFECT INTRASTATE ALLOCATIONS BELOW THE COUNTY GOVERNMENT LEVEL IN MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN[3] BY PROVIDING, FOR THE FIRST TIME, EVEN-HANDED THREE-FACTOR FORMULA DISTRIBUTIONS AMONG ALL GENERAL PURPOSE MUNICIPALITIES IN EACH COUNTY AREA, REGARDLESS OF WHETHER ANY SUCH MUNICIPALITIES HAPPEN TO BE CALLED "TOWNSHIPS".

2. THE PROPOSED AMENDMENT WILL PRECLUDE THE NECESSITY FOR WASTEFUL, COSTLY CHARTER CHANGES TO OR FROM "TOWNSHIP" BY MUNICIPALITIES IN MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN TO IMPROVE THEIR REVENUE SHARING ALLOCATIONS. IT WOULD BE A SHAME FOR INACTION BY THE CONGRESS TO TRIGGER SUCH AN UPHEAVAL IN THESE FOUR STATES.

3. THE PROPOSED AMENDMENT WILL SUBSTANTIALLY INCREASE THE ALLOCATION OF NEWARK, N.J. HAD THE AMENDMENT BEEN IN EFFECT DURING ENTITLEMENT PERIOD 6 (7/1/75-6/30/76),

---

[3] Appendix B, page 13

NEWARK WOULD HAVE RECEIVED AN ESTIMATED INCREASE OF $518,035 IN ITS ALLOCATION[4] .

VI. WHY THE PROPOSED AMENDMENT IS NEEDED FOR MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN TO RECEIVE EQUITABLE ALLOCATIONS BELOW THE COUNTY GOVERNMENT LEVEL:

THE GENERAL REVENUE SHARING LEGISLATION (P.L. 92-512) PROVIDES FOR COUNTY AREA ALLOCATIONS TO BE DIVIDED (AFTER SPECIAL PROVISIONS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES, IF ANY) INTO SEPARATE "POTS" FOR THE COUNTY GOVERNMENT, THE TOWNSHIPS, IF ANY, AS A GROUP, AND THE OTHER MUNICIPIALITIES AS A GROUP. THE BASIS FOR THIS DIVISION IS ADJUSTED TAXES ALONE. IN EFFECT, THIS IS A ONE-FACTOR FORMULA ALLOCATION. THE FACTORS OF POPULATION AND RELATIVE INCOME ARE IGNORED. THIS PROCEDURE WAS DESIGNED FOR STATES HAVING INCORPORATED OVERLAPPING JURISDICTIONS OR UNORGANIZED AREAS OR BOTH.

MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN, ON THE OTHER HAND, HAVE THE ENTIRETY OF THEIR RESPECTIVE TERRITORIAL LIMITS DIVIDED INTO GENERAL PURPOSE MUNICIPALITIES AND TOWNSHIPS (OR TOWNS), NONE OF WHICH OVERLAP. IN THESE STATES, TOWNSHIPS (OR TOWNS), ARE INDISTINGUISHABLE IN FUNCTION FROM OTHER MUNICIPALITIES SUCH AS CITIES, BOROUGHS AND VILLAGES. IT IS, THEREFORE, INAPPROPRIATE TO SET UP SEPARATE "POTS" FOR SUCH TOWNSHIPS (OR TOWNS) WITHIN THEIR COUNTY AREAS ON THE BASIS OF ADJUSTED TAXES ALONE. HUGE INEQUITIES CAN AND HAVE OCCURRED, PARTICULARLY WHEN THE PER CAPITA INCOME

[4] Appendix C, page 14

OF THE TOWNSHIPS AS A GROUP IS SUBSTANTIALLY EITHER ABOVE OR BELOW THE AVERAGE PER CAPITA INCOME OF THE COUNTY IN WHICH THEY ARE LOCATED. THE PROPOSED AMENDMENT WILL ELIMINATE SUCH INEQUITIES IN THESE FOUR STATES.

IT IS IRONIC THAT THE LETTER TO CONGRESSMAN MINISH FROM THE DIRECTOR OF THE BUREAU OF THE CENSUS[5] WHICH IDENTIFIED THE FOUR STATES OF MASSACHUSETTS, NEW JERSEY, RHODE ISLAND AND WISCONSIN AS THE ONLY STATES MEETING THE SPECIFICATIONS IN THE MINISH AMENDMENT, WAS DATED JUNE 10, 1976 - TOO LATE FOR USE IN THE DEBATE ON THE AMENDMENT WHICH TOOK PLACE ON THAT SAME DAY. ONE MAY SPECULATE WHETHER THE AMENDMENT MIGHT HAVE BEEN PASSED BY THE HOUSE HAD THE CENSUS DIRECTOR'S LETTER BEEN AVAILABLE PRIOR TO THE VOTE. INDEED, THE TRANSCRIPT OF THE DEBATE[6] REVEALS THAT THERE WERE UNRESOLVED QUESTIONS ABOUT THE EXTENT OF APPLICABILITY OF THE AMENDMENT.

VII. EFFECT OF THE PROPOSED AMENDMENT ON ESSEX COUNTY, N.J.:

THE ESTIMATED EFFECT OF THE PROPOSED AMENDMENT ON THE ENTITLEMENTS OF THE 22 MUNICIPALITIES IN ESSEX COUNTY HAS BEEN CALCULATED (BASIS: EP-6, 7/1/75-6/30/76) AND TABULATED ON A DOLLAR BASIS[7] AND A PER CAPITA BASIS[8].

DURING EP-6, THE TOWNSHIP "POT" - BASED ON ADJUSTED TAXES ALONE-FOR THE FOUR ESSEX COUNTY TOWNSHIPS OF CEDAR GROVE, LIVINGSTON, MAPLEWOOD AND MILLBURN WAS $1,221,456 OR 8.7% OF THE $14,042,092 COMBINED TOWNSHIP AND NON-TOWNSHIP "POTS".

---

[5] Appendix B, page 13

[6] Congressional Record, Vol. 122, No. 89, pp. H 5644-5646

[7] Appendix C, page 14

[8] Appendix D, page 15

HAD THE PROPOSED AMENDMENT BEEN IN EFFECT, WITH ALL 22 MUNICIPALITIES IN THE COUNTY SHARING EQUITABLY ACCORDING TO THE 3-FACTOR FORMULA, THE "POT" FOR CEDAR GROVE, LIVINGSTON, MAPLEWOOD AND MILLBURN WOULD HAVE BEEN ONLY $411,268 OR BUT 2.9% OF THE TOTAL!

DUE TO A CAPRICIOUS QUIRK OF THE LAW, THE FOUR ESSEX COUNTY TOWNSHIPS HAVE THUS BEEN RECEIVING WINDFALL ALLOCATIONS AT THE EXPENSE OF THEIR NEIGHBORS DURING THE PAST FIVE YEARS. FURTHERMORE THE SIZE OF THE WINDFALLS HAS BEEN INCREASING. DURING EP-1 AND EP-2 (1/1/72 - 12/31/72) THE ESSEX COUNTY TOWNSHIP "POT" WAS 8.3% OF THE TOTAL FOR TOWNSHIPS AND OTHER MUNICIPALITIES. THE GROWTH TO 8.7% OF THE TOTAL BY EP-6 REPRESENTS A 4.8% INCREASE IN THE SIZE OF THE TOWNSHIP "POT" DURING THIS PERIOD.

THIS INCREASE IN THE TOWNSHIP "POT" HAS CONTRIBUTED TO AN ADVERSE TREND IN NEWARK'S ALLOCATIONS. NEWARK, WHICH WAS AT THE 145% CONSTRAINT LEVEL DURING EP-1 AND EP-2, WAS PULLED DOWN $518,000 BELOW THE CONSTRAINT LEVEL BY EP-6. THIS AMOUNT WOULD HAVE BEEN RESTORED AND NEWARK WOULD HAVE REMAINED AT THE 145% CONSTRAINT LEVEL HAD THE PROPOSED AMENDMENT BEEN IN EFFECT.

ACCORDING TO THE CALCULATIONS[9,10] THE ESSEX COUNTY UNCONSTRAINED NON-TOWNSHIPS WOULD HAVE HAD THEIR ENTITLEMENTS INCREASED BY THE PROPOSED AMENDMENT BY ABOUT 6.6% EACH WHILE THE UNCONSTRAINED TOWNSHIPS WOULD HAVE HAD THEIR ENTITLEMENTS REDUCED BY ABOUT 69.3%. THE IMPORTANT POINT HERE IS NOT

---

[9] Appendix C, page 14

[10] Appendix D, page 15

THE SIZE OF THE DECREASES THE TOWNSHIPS WOULD HAVE EXPERIENCED, BUT THAT THEIR DATA ELEMENTS DIDN'T JUSTIFY THEIR HAVING RECEIVED SUCH LARGE AMOUNTS IN THE FIRST PLACE.

VIII. EFFECT OF THE PROPOSED AMENDMENT ON ATLANTIC COUNTY, N.J.:

IT SHOULD NOT BE CONCLUDED THAT THE "TOWNSHIP INEQUITY" ALWAYS FAVORS TOWNSHIPS. IN ATLANTIC COUNTY, N.J., FOR EXAMPLE, IT FAVORS NON-TOWNSHIPS. THE RELATIONSHIP OF THE DATA ELEMENTS OF TOWNSHIPS VIS-A-VIS NON-TOWNSHIPS IN EACH COUNTY DETERMINES WHICH WILL DO BETTER.

ACCORDING TO CALCULATED ESTIMATES ON A DOLLAR[11] AND PER CAPITA[12] BASIS, THE PROPOSED AMENDMENT WOULD HAVE INCREASED THE ATLANTIC COUNTY TOWNSHIP ENTITLEMENTS BY 15.3% DURING EP-6, WHILE THE UNCONSTRAINED NON-TOWNSHIPS WOULD HAVE LOST 2.4% (ATLANTIC CITY WOULD HAVE REMAINED AT THE 145% CONSTRAINT LEVEL). ATLANTIC COUNTY TOWNSHIPS HAVE BEEN PENALIZED UNFAIRLY BY THE PRESENT LEGISLATION.

THE ONLY EVEN-HANDED SOLUTION TO THE "TOWNSHIP INEQUITY" IS THE ADOPTION OF THE PROPOSED AMENDMENT.

IX. OPTIONS IN THE ABSENCE OF REMEDIAL LEGISLATION:

IN THE ABSENCE OF REMEDIAL LEGISLATION, WHAT OPTIONS ARE AVAILABLE TO AGGRIEVED MUNICIPALITIES SUCH AS MONTCLAIR?

ONE OPTION, CERTAINLY, WOULD BE TO CONTINUE TO ACCEPT OUR FATE AS WE HAVE HAD TO DO FOR THE PAST FIVE YEARS. NO DOUBT MANY MUNICIPALITIES WILL CONTINUE TO DO JUST THAT.

ANOTHER OPTION WOULD BE TO TRY AGAIN TO HAVE REMEDIAL LEGISLATION ENACTED WHEN THE PROGRAM NEXT COMES UP FOR RENEWAL

---

[11] Appendix E, page 16

[12] Appendix F, page 17

IN THREE YEARS AND NINE MONTHS. BUT, THERE IS NO REASON TO BELIEVE THAT THE CHANCE FOR SUCCESS WOULD BE ANY BETTER THEN.

A THIRD ALTERNATIVE WOULD BE TO USE THE OPTIONAL FORMULA ALLOCATION RULE WHICH PERMITS A STATE BY LAW TO ALLOCATE FUNDS AMONG COUNTY AREAS OR AMONG UNITS OF LOCAL GOVERNMENT (OTHER THAN COUNTY GOVERNMENTS) ON THE BASIS OF POPULATION TIMES THE GENERAL TAX EFFORT FACTORS, OR POPULATION TIMES THE RELATIVE INCOME FACTORS OR BY ANY COMBINATION OF THOSE TWO FACTORS. THIS OPTION QUITE UNDERSTANDABLY HAS NOT BEEN EXERCISED BY ANY STATE TO DATE. NOR IS IT LIKELY TO BE. THE POSSIBLE COMBINATIONS ARE INFINITE AND A GENERALLY ACCEPTABLE RESULT CAN SCARCELY BE IMAGINED. MOREOVER, IT DOESN'T ADDRESS ITSELF TO THE PROBLEM, WHICH IS A FAULTY, AMBIGUOUS DEFINITION OF THE TERM "TOWNSHIP".

A FOURTH OPTION, WOULD BE FOR MUNICIPALITIES TO CHANGE THEIR CHARTERS TO OR FROM TOWNSHIP, WHICHEVER WOULD RESULT IN THE LARGER REVENUE SHARING ALLOCATION. IN ESSEX COUNTY, N. J., TOWNSHIPS FARE BETTER. CALCULATIONS SHOW THAT HAD MONTCLAIR REVERTED TO THE TOWNSHIP STATUS IT LAST ENJOYED IN 1894, AND NO OTHER ESSEX COUNTY MUNICIPALITIES HAD CHANGED CHARTERS, MONTCLAIR'S EP-6 ENTITLEMENTS WOULD HAVE BEEN INCREASED BY AN ESTIMATED $534,552 OR 232.9%[13] . THE OTHER TOWNSHIPS' ENTITLEMENTS WOULD HAVE BEEN DECREASED BY 4.1% AND THE UNCONSTRAINED NON-TOWNSHIPS DECREASED BY ABOUT 3.9%.

---

13 Appendix G, page 18

76-811 O - 76 - 16

LOOKING TO THE FUTURE, A MORE LIKELY SCENARIO FOR ESSEX COUNTY WOULD BE: NOT FOR MONTCLAIR ALONE, BUT FOR ALL 16 UNCONSTRAINED NON-TOWNSHIPS TO BECOME TOWNSHIPS. IN THIS EVENT, THE RESULT WOULD BE EXACTLY AS IF THE PROPOSED AMENDMENT HAD BEEN ENACTED[14] . THE 3-FACTOR FORMULA AND CONSTRAINT LEVELS WOULD THEN DETERMINE THE ALLOCATIONS OF ALL 22 ESSEX COUNTY MUNICIPALITIES.

HOWEVER, THIS WOULD NOT BE A VERY ATTRACTIVE OPTION FOR ESSEX COUNTY MUNICIPALITIES. IT WOULD INVOLVE WASTEFUL COSTS FOR STATIONERY, SIGNS, MAPS AND PROBABLY REFERENDA. IT ALSO WOULD REQUIRE LEGISLATION AT THE STATE LEVEL TO PROVIDE FOR REVERSION TO TOWNSHIP STATUS. AND, IT WOULD TAKE TIME.

IN ATLANTIC COUNTY, ON THE OTHER HAND, THE INDICATED CHANGES TO NON-TOWNSHIP CHARTERS WOULD BE SOMEWHAT EASIER. CURRENT LAW PROVIDES FOR THIS.

HOWEVER, ALL CASES OF CHARTER CHANGES WOULD BE INCONVENIENT, COSTLY AND TIME CONSUMING. THE DELAY ALONE COULD RESULT IN LOSS OF A SUBSTANTIAL PART OR ALL OF THE EXPECTED BENEFITS. IN ADDITION, THERE MIGHT BE PSYCHOLOGICAL BARRIERS. THE TOWNSHIP OF NEWARK MAY NOT SOUND VERY IMPOSING TO NEWARK RESIDENTS - EVEN THOUGH IT WOULD BE WORTH OVER HALF-A-MILLION DOLLARS A YEAR IN ADDITIONAL REVENUE SHARING.

THUS, NONE OF THE AVAILABLE OPTIONS ARE REALLY VERY SATISFACTORY. IT IS EARNESTLY HOPED THAT THE CONGRESS WILL SPARE US THE AGONY OF HAVING TO TRY TO SOLVE THE PROBLEM OURSELVES THE HARD WAY, WHEN THE STRAIGHTFORWARD SOLUTION WOULD BE THE ENACTMENT OF THE PROPOSED AMENDMENT.

---

[14] Appendix C, page 14

X. CONCLUSION:

During the debate on the Minish Amendment on the floor of the House on June 10, 1976, Congressman Minish said[15], "I would hope that now that the House is aware of the inequities in the revenue sharing program that it would at least correct this section of the bill. This is an unbelievable situation, and I do not think that anyone who understands this amendment can vote against it."

The Proposed Amendment is needed - to correct inequities in the four States of Massachusetts, New Jersey, Rhode Island and Wisconsin. It will not affect any other States or the District of Columbia. It will provide additional funds for Newark, N.J., without depriving any other Essex County municipalities or townships of allocations that can be justified on the basis of their data elements.

It will not change the General Revenue Sharing allocation procedure or formulas one iota; it will only change the definition of "Township", which is ambiguous as now applied in these four States and these four States alone.

The Proposed Amendment should be enacted. I respectfully urge the Committee on Finance and the Senate to insure that this is done.

---

[15]Congressional Record, Vol. 122, No. 89, page H5645

APPENDIX A

VOTE ON THE MINISH AMENDMENT TO H. R. 13367

Defeated June 10, 1976: ayes 158, noes 229, not voting 44

NOTES: 1. The Minish Amendment would not have affected Interstate Allocations among the 50 States and D.C.

2. The Minish Amendment would have affected Intrastate Allocations in only four states (N.J., Mass., R.I., and Wis.)

3. The Minish Amendment would not have affected Intrastate Allocations in the other 46 States.

4. The Minish Amendment carried the Congressional Delegations of the 4 affected States of N.J., Mass., R.I., and Wis. by a vote of ayes 24, noes 9, not voting 5, as follows:

AYES - 24

N.J.:	Florio	MASS:	Conte
	Hughes		Boland
	Howard		Early
	Fenwick		Drinan
	Maguire		Tsongas
	Roe		Harrington
	Rodino		O'Neill
	Minish		Moakley
	Rinaldo		Heckler
	Meyner		Burke
	Patten		Studds
R.I.:	St. Germaine	WIS.:	Zablocki

NOES - 9

N.J.:	Forsythe	WIS.:	Baldus
			Reuss
MASS:	McDonald		Steiger
			Obey
WIS.:	Aspin		Cornell
	Kastenmeier		

NOT VOTING - 5

N.J.:	Thompson	(paired for)
	Helstoski	(paired for)
	Daniels	(paired for)
R.I.:	Beard	(paired for)
WIS.:	Kasten	(paired against)

APPENDIX B

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D.C. 20233
OFFICE OF THE DIRECTOR

JUN 10 1976

Honorable Joseph G. Minish
House of Representatives
Washington, D.C. 20515

Dear Mr. Minish:

~~This is in~~ response to the telephone request from your staff for a list of the States which have the entirety of their territorial limits divided into general purpose municipalities and townships, none of which overlap. The term "township" is understood to include "town" in the New England States, New York, and Wisconsin.

The only States that meet these requirements are Massachusetts, New Jersey, Rhode Island, and Wisconsin.

However, attention should be called to the fact that certain other States fail to meet these criteria by a relatively narrow margin. Two States are divided into general purpose municipalities and townships but contain a few small unorganized areas (comprising less than one percent of their population) that are not included in any general purpose municipality. These States are New Hampshire and Pennsylvania.

One State, Connecticut, is entirely divided into general purpose municipalities but does contain a few overlapping (dependent) incorporated places. These overlapping places account for a relatively small fraction of the State's population.

There are also three States that contain some unorganized areas (comprising a small fraction of the State's population) and that also have a few overlapping (dependent) incorporated places. These States are Maine, Minnesota, and Vermont.

There are ten other States that contain governmental entities of the township type. These ten States are Illinois, Indiana, Kansas, Michigan, Missouri, Nebraska, New York, North Dakota, Ohio, and South Dakota. In all of these States, many or most of the incorporated places are overlapping (dependent). Several of these States also contain extensive areas that are not within any general purpose municipality.

If we can be of any further assistance, please let me know.

Sincerely,

VINCENT P. BARABBA
Director
Bureau of the Census

APPENDIX C

PROPOSED ESSEX COUNTY, N.J.
ENTITLEMENTS WITH TOWNSHIPS
TREATED SAME AS OTHER MUNICIPALITIES

Municipality	Final Data Elements, Entitlement Period 6 (7/1/75 - 6/30/76) 1973 Pop.	1972 Per-Cap. Inc,$	F/Y 1974 Adj. Taxes Dollars	EP-6 Final Entitlement, Dollars	Alternative Procedure Entitlement, $	Gain (+) or Loss (-) $	%
Belleville Town	37586	4471	5,805,561	362,634	386,588	+ 23954	+ 6.6
Bloomfield Town	51525	4883	8,078,886	423,122	451,015	+ 27893	+ 6.6
Caldwell Boro	8550	5722	1,135,426	43,296	46,161	+ 2865	+ 6.6
East Orange City	73574	4565	14,139,313	847,054	903,150	+ 56096	+ 6.6
Essex Fells Boro	2506	9801	512,369	9,074*	9,074*	0	0.0
Fairfield Boro	7244	4547	1,201,862	72,523	77,378	+ 4855	+ 6.6
Glen Ridge Boro	8494	6521	1,476,628	43,375	46,223	+ 2848	+ 6.6
Irvington Town	58012	4361	8,260,909	542,099	578,188	+ 36089	+ 6.6
Montclair Town	42967	6495	7,753,607	229,550	244,550	+ 15108	+ 6.6
Newark City	364534	2964	63,685,912	9,051,696	9,569,731*	+518035	+ 5.7
North Caldwell Boro	6856	7449	897,673	24,827*	24,827*	0	0.0
Nutley Town	31555	4888	4,565,656	238,653	254,363	+ 15710	+ 6.6
Orange City	31956	4155	5,944,001	429,915	458,300	+ 28385	+ 6.6
Roseland Boro	4629	5163	895,987	41,970	44,742	+ 2772	+ 6.6
South Orange Vil.	16924	8550	4,249,445	72,580	77,377	+ 4797	+ 6.6
Verona Boro	15139	6253	1,802,667	57,572	61,369	+ 3797	+ 6.6
West Caldwell Boro	12084	5964	1,643,884	57,706	61,519	+ 3813	+ 6.6
West Orange Town	43128	5716	7,141,639	272,990	290,956	+ 17966	+ 6.6
Sub-Total: 18 Non-Townships	817263	4219	139,191,425	12,820,636	13,585,619	+764983	+ 6.0
Cedar Grove Twp.	14650	4296	1,357,586	318,918	97,916	-221002	-69.3
Livingston Twp.	30371	6646	3,209,261	314,972	109,972*	-205000	-65.1
Maplewood Twp.	24428	6488	4,041,126	416,202	127,789	-288413	-69.3
Millburn Twp.	20876	10861	4,662,329	171,364	75,591*	- 95773	-55.9
Sub-Total: 4 Townships	90325	7193	13,270,302	1,221,456	411,268	-810188	-66.3
Total: 22 Municipalities	907588	4515	152,461,727	14,042,092	13,996,887	- 45205	- 0.3

* Constrained by 145% or 20% Rules

Note: Alternative Procedure Entitlements are calculated estimates which need to be refined by computer to distribute constrained overages and underages among unconstrained local governments throughout the State.

APPENDIX D

PROPOSED ESSEX COUNTY, N.J.
PER CAPITA ENTITLEMENTS WITH TOWNSHIPS
TREATED SAME AS OTHER MUNICIPALITIES

Municipality	Per Cap. EP-6 Final Entitlement, Dollars	Per Cap. Alternative Procedure Entitlement, $	Gain (+) or Loss (-) $	Gain (+) or Loss (-) %
Belleville Town	9.65	10.29	+0.64	+ 6.6
Bloomfield Town	8.21	8.75	+0.54	+ 6.6
Caldwell Boro	5.06	5.40	+0.34	+ 6.6
East Orange City	11.51	12.28	+0.77	+ 6.6
Essex Fells Boro	3.62*	3.62*	0.00	0.0
Fairfield Boro	10.01	10.68	+0.67	+ 6.6
Glen Ridge Boro	5.11	5.44	+0.33	+ 6.6
Irvington Town	9.34	9.97	+0.63	+ 6.6
Montclair Town	5.34	5.69	+0.35	+ 6.6
Newark City	24.83	26.25*	+1.42	+ 5.7
North Caldwell Boro	3.62*	3.62*	0.00	0.0
Nutley Town	7.56	8.06	+0.50	+ 6.6
Orange City	13.45	14.34	+0.89	+ 6.6
Roseland Boro	9.07	9.67	+0.60	+ 6.6
South Orange Village	4.29	4.57	+0.28	+ 6.6
Verona Boro	3.80	4.05	+0.25	+ 6.6
West Caldwell Boro	4.78	5.09	+0.31	+ 6.6
West Orange Town	6.33	6.75	+0.42	+ 6.6
Sub-Total : 18 Non-Townships	15.69	16.62	+0.93	+ 6.0
Cedar Grove Twp.	21.77	6.68	-15.09	-69.3
Livingston Twp.	10.37	3.62*	- 6.75	-65.1
Maplewood Twp.	17.04	5.23	-11.81	-69.3
Millburn Twp.	8.21	3.62*	- 4.59	-55.9
Sub-Total : 4 Townships	13.52	4.55	- 8.97	-66.3
Total: 22 Municipalities	15.47	15.42	- 0.05	- 0.3

* Constrained by 145% or 20% Rules

Note: Alternative Procedure Entitlements are calculated estimates which need to be refined by computer to distribute constrained overages and underages among unconstrained local governments throughout the State.

APPENDIX E

PROPOSED ATLANTIC COUNTY, N. J.
ENTITLEMENTS WITH TOWNSHIPS
TREATED SAME AS OTHER MUNICIPALITIES

Municipality	Final Data Elements, Entitlement Period 6 (7/1/75 - 6/30/76) 1973 Pop.	1972 Per-Cap. Inc,$	F/Y 1974 Adj. Taxes Dollars	EP-6 Final Entitlement, Dollars	Alternative Procedure Entitlement, $	Gain (+) or Loss (-) $	%
Absecon City	6,700	4,067	656,447	53,179	51,928	-1,251	-2.4
Atlantic City City	46,361	3,216	16,748,929	1,217,067*	1,217,067*	0	0.0
Brigantine City	7,704	4,139	1,445,953	113,112	110,437	-2,675	-2.4
Buena Boro.	3,464	3,432	203,020	23,113	22,553	- 560	-2.4
Corbin City City	272	3,881	21,908	1,948	1,903	- 45	-2.4
Egg Harbor City	4,389	3,880	407,598	36,286	35,426	- 860	-2.4
Estell Manor City	586	3,249	107,510	13,654	13,326	- 328	-2.4
Folsom Boro.	1,941	3,564	100,821	10,633	10,386	- 247	-2.4
Hammonton Town	12,400	3,746	899,682	85,932	83,889	-2,043	-2.4
Linwood City	6,849	4,715	562,360	33,885	33,098	- 787	-2.4
Longport Boro	1,363	7,045	567,853	15,333	14,970	- 363	-2.4
Margate City	10,857	6,261	1,881,947	64,323	62,816	-1,507	-2.4
Northfield City	9,061	4,205	940,282	71,247	69,579	-1,668	-2.4
Pleasantville City	14,679	3,341	1,926,599	231,284	225,835	-5,449	-2.4
Port Republic City	640	4,044	68,222	5,591	5,458	- 133	-2.4
Somers Point City	9,658	4,154	1,158,363	89,962	87,834	-2,128	-2.4
Ventnor City City	11,366	4,841	2,569,802	146,984	143,477	-3,507	-2.4
Sub-Total: 17 Non-Townships	148,290	3,967	30,267,296	2,213,533	2,189,982	-23,551	-1.1
Buena Vista Twp.	4,685	2,899	408,475	55,155	63,595	+ 8,440	+15.3
Egg Harbor Twp.	12,621	3,383	1,947,359	193,046	222,636	+29,590	+15.3
Galloway Twp.	8,932	3,376	777,743	77,405	89,286	+11,881	+15.3
Hamilton Twp.	7,370	3,496	972,034	90,190	104,062	+13,872	+15.3
Mullica Twp.	3,659	2,999	478,233	60,350	69,573	+ 9,223	+15.3
Weymouth Twp.	1,085	2,768	80,675	11,946	13,777	+ 1,831	+15.3
Sub-Total: 6 Townships	38,352	3,290	4,664,519	488,092	562,929	+74,837	+15.3
Total: 23 Municipalities	186,642	3,828	34,843,738	2,701,625	2,752,911	+51,286	+ 1.9

* Constrained by 145% Rule

Note: Alternative Procedure Entitlements are calculated estimates which need to be refined by computer to distribute constrained overages and underages among unconstrained local governments throughout the State.

APPENDIX F

PROPOSED ATLANTIC COUNTY, N.J.
PER CAPITA ENTITLEMENTS WITH TOWNSHIPS
TREATED SAME AS OTHER MUNICIPALITIES

Municipality	Per Cap. EP-6 Final Entitlement, Dollars	Per Cap. Alternative Procedure Entitlement, $	Gain (+) or Loss (-) $	Gain (+) or Loss (-) %
Absecon City	7.94	7.75	-0.19	- 2.4
Atlantic City City	26.25*	26.25*	0.00	0.0
Brigantine City	14.68	14.34	-0.34	- 2.4
Buena Boro.	6.67	6.51	-0.16	- 2.4
Corbin City City	7.16	7.00	-0.16	- 2.4
Egg Harbor City	8.27	8.07	-0.20	- 2.4
Estell Manor City	23.30	22.74	-0.56	- 2.4
Folsom Boro.	5.48	5.35	-0.13	- 2.4
Hammonton Town	6.93	6.77	-0.16	- 2.4
Linwood City	4.95	4.83	-0.12	- 2.4
Longport Boro.	11.25	10.98	-0.27	- 2.4
Margate City	5.92	5.79	-0.13	- 2.4
Northfield City	7.86	7.68	-0.18	- 2.4
Pleasantville City	15.76	15.38	-0.38	- 2.4
Port Republic City	8.74	8.53	-0.21	- 2.4
Somers Point City	9.31	9.09	-0.22	- 2.4
Ventnor City City	12.93	12.62	-0.31	- 2.4
Sub-Total: 17 Townships	14.93	14.77	-0.16	- 1.1
Buena Vista Twp.	11.77	13.57	+1.80	+15.3
Egg Harbor Twp.	15.30	17.64	+2.34	+15.3
Galloway Twp.	8.67	10.00	+1.33	+15.3
Hamilton Twp.	12.24	14.12	+1.88	+15.3
Mullica Twp.	16.49	19.01	+2.52	+15.3
Weymouth Twp.	11.01	12.70	+1.69	+15.3
Sub-Total: 6 Townships	12.73	14.68	+1.95	+15.3
Total: 23 Municipalities	14.47	14.75	+0.28	+ 1.9

* Constrained by 145% Rule

Note: Alternative Procedure Entitlements are calculated estimates which need to be refined by computer to distribute constrained overages and underages among unconstrained local governments throughout the State.

APPENDIX G

PROPOSED ESSEX COUNTY, N.J. ENTITLEMENTS WITH MONTCLAIR CHANGED TO A TOWNSHIP UNDER EXISTING GENERAL REVENUE SHARING LEGISLATION

Basis: Entitlement Period-6 (7/1/75 - 6/30/76)

Municipality	EP-6 Final Entitlement, Dollars	Alternative Entitlement, Montclair as Twp.,$	Gain (+) or Loss (-)	
			$	%
Belleville Town	362,634	348,674	- 13,960	- 3.8
Bloomfield Town	423,122	406,783	- 16,339	- 3.9
Caldwell Boro	43,296	41,634	- 1,662	- 3.8
East Orange City	847,054	814,574	- 32,480	- 3.8
Essex Fells Boro	9,074*	9,074*	0	0.0
Fairfield Boro	72,523	69,789	- 2,734	- 3.8
Glen Ridge Boro	43,375	41,690	- 1,685	- 3.9
Irvington Town	542,099	521,482	- 20,617	- 3.8
MONTCLAIR TOWN	229,550	See Below	See Below	See Below
Newark City	9,051,696	8,703,047	-348,649	- 3.9
North Caldwell Boro	24,827*	24,827*	0	0.0
Nutley Town	238,653	229,417	- 9,236	- 3.9
Orange City	429,915	413,352	- 16,563	- 3.9
Roseland Boro	41,970	40,354	- 1,616	- 3.9
South Orange Vil.	72,580	69,789	- 2,791	- 3.8
Verona Boro	57,572	55,351	- 2,221	- 3.9
West Caldwell Boro	57,706	55,486	- 2,220	- 3.8
West Orange Town	272,990	262,421	- 10,569	- 3.9
Sub Total: Non-Townships	12,820,636	12,107,744	-	-
Cedar Grove Twp.	318,918	305,805	- 13,113	- 4.1
Livingston Twp.	314,972	302,058	- 12,914	- 4.1
Maplewood Twp.	416,202	399,105	- 17,097	- 4.1
Millburn Twp.	171,364	164,312	- 7,052	- 4.1
MONTCLAIR "TWP."	See above	764,102	+534,552	+232.9
Sub Total: Townships	1,221,456	1,935,382	-	-
Total: 22 Municipalities	14,042,092	14,043,126	+ 1,034	0.0

* Constrained by 20% Rule

Note: Alternative Procedure Entitlements are calculated estimates which need to be refined by computer to distribute constrained overages and underages among unconstrained local governments throughout the State.

APPENDIX H

HIGHLIGHTS OF EFFORTS TO SECURE MORE EQUITABLE REVENUE SHARING

1. Conference in Trenton between full Montclair Commission and members of Governor Cahill's staff, October 27, 1972
2. Close liaison (correspondence, conferences, telephone conversations with Congressman Minish since 1972
3. Resolution adopted by Montclair Commission, December 12, 1972
4. Correspondence with Senator Case and Senator Williams and conferences in D.C. with members of their staffs
5. Extensive correspondence and several conversations (in N.J., N.Y. and D.C.) with Treasury Secretary Simon
6. Conference with Mr. Graham W. Watt, Director, Office of Revenue Sharing with members of his staff in D.C., February 10, 1975 - prepared and presented discussion booklet entitled, "Proposals for Correcting Weaknesses in the General Revenue - Sharing Program", 25 pages
7. Conference with Commerce Secretary Dent in D.C., February 10, 1975
8. Extensive correspondence and numerous telephone conferences with various government agencies and private organizations, such as, Department of Labor, Internal Revenue Service, Bureau of the Census, Office of Revenue Sharing, National Science Foundation, Brookings Institute, Stanford Research Institute, Westat Research, Survey Research Center of University of Michigan
9. Presented oral and written testimony to Intergovernmental Relations and Human Resources Subcommittee, Committee on Government Operations, House of Representatives, October 23, 1975 - prepared testimony booklet entitled, "Recommended Amendments to the Proposed Revenue Sharing Renewal Legislation", 53 pages
10. Conference with Treasury Under Secretary Schmults in D.C., October 23, 1975
11. Correspondence with Governor Byrne and Members of the New Jersey Congressional Delegation.

APPENDIX H (CONT'D)

12. RESOLUTION ADOPTED BY THE MONTCLAIR COMMISSION, OCTOBER 28, 1975

13. NUMEROUS ORAL AND WRITTEN PUBLIC STATEMENTS INCLUDING ADDRESS TO MONTCLAIR LIONS CLUB AND TAPED INTERVIEWS ON "RAMBLING WITH ROBERTS" RADIO PROGRAM WOR-AM

14. PREPARED AND SUBMITTED WRITTEN STATEMENT TO THE SENATE COMMITTEE ON FINANCE ENTITLED, "RECOMMENDATION TO AMEND THE GENERAL REVENUE SHARING RENEWAL LEGISLATION (H.R. 13367), AUGUST 16, 1976", 20 PAGES.

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., August 25, 1976.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The National Chamber urges you and the members of the Senate Finance Committee to take prompt action to extend the State and Local Fiscal Assistance Act of 1972, generally in the form of H.R. 13367.

Such an extension should include four vital provisions:

1. *A simple purpose to provide fiscal assistance to state and local governments,* as its name implies. The Act should not be loaded with self-defeating, restrictive additional purposes.

2. *A minimum of federal strings.* The Congress should not add a lengthy list of requirements for federal review of particulars in the use of funds provided by the Act, lest such requirements destroy the unique and beneficial character of the idea. This is not a categorical grant program for which Congress bears the primary operational responsibility, but a fiscal assistance program which focuses the spotlight of public scrutiny and accountability on the state and local officials who use the funds.

3. *Multi-year funding, to allow state and local governments to forecast with reasonable accuracy the revenues they can expect from this Act.* Such a provision is important for efficient budgeting by the governments receiving funds. The "start-stop" annual uncertainty of traditional grant programs is one of the main causes of their inefficiency. This Act has demonstrated that much better budgeting procedures can be used when sources and amounts of funds are more dependable and predictable.

4. *Local accountability for spending choices of recipient governments.* The public must be informed and involved, but the Congress should refrain from mandating specific procedures. No single approach would be suitable for all 39,000 governments.

The Chamber supports extension of the State and Local Fiscal Assistance Act containing the provisions just enumerated, because these provisions have been the key elements in four and one-half years of experience which has produced the following persuasive arguments for continuation:

1. It is working. There are few hitches, few complaints and a scandal-free record during the distribution of almost $30 billion dollars to 39,000 governments. No previous federal aid program has even approached the degree of comprehensive coverage, objectivity in distribution formula and assured basis of financing which this Act demonstrates.

2. It is cost-effective. No new bureaucracy, federal or local, is required. Funds can be used for the most urgent needs, and projects financed by the current Act are costing measurably less to complete than are projects funded with categorical grants. There is an almost infinitesimal federal overhead cost: twelve one-hundredths of one percent annually, compared to other programs which may have overhead costs one hundred times larger. More of the total tax dollars actually go to fill high-priority needs.

3. It allows true local decisions on priority needs. This is the basic revenue sharing idea. The flexibility of revenue sharing dollars enabled countless governments to adapt to recent economic problems to an extent impossible under traditional grant systems. Local decisions do not assure total agreement, of course, and most complaints on the use of revenue sharing funds stem from simple differences of opinion on how local funds should be used. Information and debate on local issues have stimulated citizen awareness of spending options.

4. It places final spending decisions with governments which are forced to conserve funds and where the taxpayer has maximum influence. Only the federal government can consistently spend more than it takes in; local and state governments must balance their budgets. By and large, local officials are more accessible to the taxpayer than are federal officials. Citizens can reach a mayor or county official by a local telephone call while federal officials are harder to reach by virtue of distance alone.

5. Local chambers of commerce favor revenue sharing. The National Chamber surveyed a sample of affiliated local chambers to determine their experience with and attitudes toward revenue sharing. A majority of local chambers has been involved, at least informally, in suggesting how funds should be spent. An overwhelming majority feels the program has been beneficial, especially in financing projects which would not have been possible without this source of funds, and

in improving financial management of local governments. A majority of chambers favors revenue sharing as a *form* of aid over categorical or block grants, regardless of how much money is available.

A copy of the complete summary report of the survey is attached for your information.*

The strong mutual interest of the Congress and the National Chamber in federal budget control causes me to emphasize our support for three-and-three-quarter year entitlement financing for revenue sharing, as provided for in the Budget Control and Impoundment Act of 1974, and in H.R. 13367. We favor this long-term financing over the regular appropriations process because of the extreme importance of assured financing to this unique program. Short-term funding forces local governments to short-term programs, nullifying a basic intent of revenue sharing: To give a wide range of choice on how funds should be spent.

In summary, the National Chamber supports a revenue sharing extension embodying the basic features of the present law: Simple purpose, multi-year funding, a minimum of federal strings, and primary accountability to local voters rather than to a federal agency. We hope you will push for such an extension, and we stand ready to assist you or your staff in this effort.

Your consideration of our views will be appreciated, and we request that this letter be made a part of the record of hearings.

Cordially,

HILTON DAVIS,
General Manager, Legislative Action.

---

*This was made a part of the official files of the committee.

Appendix B.—General Revenue Sharing: Summary of Present Law and H.R. 13367

GENERAL REVENUE SHARING: SUMMARY OF PRESENT LAW AND H.R. 13367

(EXTENSION AND REVISION OF TITLE I OF THE STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972)

PREPARED FOR THE USE OF THE

COMMITTEE ON FINANCE

BY THE STAFF OF THE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

AUGUST 13, 1976

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1976

JCS 24-76

76-811 O - 76 - 17

I. Summary of Present Law

The State and Local Fiscal Assistance Act of 1972 provided a new and fundamentally different kind of fiscal aid to State and local governments. The Federal Government provided very substantial aid to State and local governments in the past. However, this has been in the form of categorical aid which generally must be spent for rather narrowly prescribed purposes, and which does not give the State and local governments much flexibility as to how the funds may be used. Accordingly, the Congress concluded that there was need for a new aid program to give the State and local governments the flexibility that they need to use the funds for the most vital purposes in their particular circumstances.

The fiscal assistance provided by the Act differed in several fundamental respects from other proposals which have been made for the sharing of funds by the Federal Government with the States and localities.

First, the local governments, although given considerable latitude in the use of the aid funds, were also provided with general guidance to give assurance that the funds will be spent for priority items.

Second, the Act provided for the distribution of specific dollar amounts of fiscal assistance rather than a percentage of Federal revenues. This was preferred in order that the Federal Government not add a new expenditure category which would grow at an uncontrollable rate.

Third, the act provided the fiscal assistance for a limited 5-year period. This assures a review of the financial problems of State and local governments after a period of time with the result that provision can be made for needed changes as they develop. At the same time it gives assurance that these funds will be available to States and localities during the current period when, because of economic and other problems, the need for this assistance may well be at a peak level.

And fourth, the formulas for distributing the funds were designed to encourage State governments as well as local governments to meet their revenue needs to the greatest extent possible out of their own tax sources, either by greater use of income taxes or other revenue sources.

More specifically, the Act appropriated $30.2 billion for aid to State and local governments covering the period from January 1, 1972, through December 31, 1976. The payments started at an annual rate of $5.3 billion for calendar year 1972 and increased annually until they reached a $6.65 billion annual rate for the second half of calendar year 1976.

The following tabulation shows the amounts of aid appropriated for distribution to State and local governments by fiscal years:

Period	*Amount of aid (millions)*
January 1, 1972, through June 30, 1972	$2,652
Fiscal year beginning July 1, 1972	5,642
Fiscal year beginning July 1, 1973	6,055
Fiscal year beginning July 1, 1974	6,205
Fiscal year beginning July 1, 1975	6,355
July 1, 1976, through December 31, 1976	3,327
Total	30,236

These aid funds were distributed among the States and the localities on the basis of formulas which were designed to recognize the varying circumstances of particular States and localities throughout the country and "to put the money where the needs are."

Two-thirds of the total amount appropriated each year was distributed to local governments throughout the country and the remaining one-third was distributed to the States. This division of funds was provided because it was believed that local governments generally have more pressing financial problems than the States and also because approximately two-thirds of total State and local expenditures are made by local governments.

Table 1 shows the distribution among the States of the aid funds for the States and for localities through June, 1976.

The Act used two different formulas in determining the allocations shown in Table 1 for State areas (which include in each case both the State and its localities). The actual payment going to each State area was computed on whichever of the two formulas yielded the higher payment.

TABLE 1.—REVENUE SHARING PAYMENTS TO STATE AND LOCAL GOVERNMENTS THROUGH JUNE, 1976

State name	State	Local governments	Totals
Alabama	$149,116,037	$298,531,003	$447,647,040
Alaska	11,902,156	23,973,698	35,875,854
Arizona	89,744,686	180,819,350	270,564,036
Arkansas	97,092,170	180,526,157	277,618,327
California	944,559,961	1,889,223,177	2,833,783,138
Colorado	94,432,153	188,995,437	283,427,590
Connecticut	114,805,142	229,769,469	344,574,611
Delaware	29,850,531	50,538,386	80,388,917
District of Columbia	117,663,975	----------	117,663,975
Florida	265,806,750	532,137,231	797,943,981
Georgia	186,641,773	373,131,122	559,772,895
Hawaii	39,271,327	78,542,653	117,813,980
Idaho	35,814,074	71,636,365	107,450,439
Illinois	454,687,884	795,549,790	1,250,237,674
Indiana	187,003,285	373,954,183	560,957,468
Iowa	123,695,231	247,454,681	371,149,912
Kansas	84,653,308	169,273,833	253,927,141
Kentucky	164,641,546	271,112,895	435,754,441
Louisiana	203,924,770	400,815,526	604,740,296
Maine	55,021,536	110,089,459	165,110,995
Maryland	176,704,261	353,408,525	530,112,786
Massachusetts	283,545,633	568,099,329	851,644,962
Michigan	377,364,771	755,684,750	1,133,049,521
Minnesota	178,974,882	358,722,999	537,697,881
Mississippi	148,139,271	281,223,149	429,362,420
Missouri	168,353,209	336,399,256	504,752,465
Montana	34,805,430	69,610,423	104,415,853
Nebraska	62,753,770	125,506,852	188,260,622
Nevada	19,830,841	39,653,229	59,484,070
New Hampshire	28,426,219	56,915,591	85,341,810
New Jersey	279,600,825	559,407,630	839,008,455
New Mexico	57,635,424	111,060,985	168,696,409
New York	998,273,997	1,994,186,981	2,992,460,978
North Carolina	225,973,387	452,634,804	678,608,191
North Dakota	33,253,341	66,503,932	99,757,273
Ohio	357,794,899	715,564,724	1,073,359,623
Oklahoma	99,632,719	199,238,356	298,871,075
Oregon	89,747,716	179,524,072	269,271,788
Pennsylvania	469,537,615	939,681,626	1,409,219,241
Rhode Island	39,733,881	79,467,764	119,201,645
South Carolina	124,998,943	243,981,362	368,980,305
South Dakota	38,498,628	77,284,880	115,783,508
Tennessee	167,711,660	337,880,824	505,592,484
Texas	425,739,933	850,057,216	1,275,797,149
Utah	52,546,735	105,103,993	157,650,728
Vermont	25,666,164	51,422,229	77,088,393
Virginia	177,485,689	362,896,083	540,381,772
Washington	128,978,375	257,966,013	386,944,388
West Virginia	109,905,179	148,119,669	258,024,848
Wisconsin	224,487,574	449,430,522	673,918,096
Wyoming	15,900,900	31,801,800	47,702,700
National total	9,072,330,166	17,624,613,983	26,696,844,149

Source: U.S. Treasury Department, Office of Revenue Sharing.

The first formula, in part, was based on the need of the States and localities and, in part, was an incentive device to encourage them to meet their own needs. Under this formula, the need of States and their localities was measured by taking into account population, the extent of urbanization and the extent of relative poverty (measured by population inversely weighted by relative per capita income). The incentive feature in the formula was designed to encourage tax effort generally in a State and also to encourage greater use of State individual income taxes. In the distribution, the three items in this formula designed to measure need are each given a weight of about 22 percent (giving the three items a combined weight of two-thirds of the total) while the two incentive factors are each given a weight of about 17 percent (and together a weight of about one-third of the total).

In determining the distribution of the aid based on income tax collections, the Act provided that 15 percent of the individual income tax collections of each State was to be taken into consideration. However, to prevent particular States from securing either an unduly large or unduly low allocation as a result of this factor, the amount of such income taxes actually taken into consideration could not exceed 6 percent of the Federal individual income tax liabilities attributable to the State or fall below one percent of these Federal income tax liabilities. The latter one percent floor has been especially helpful to States which do not impose individual income taxes.

The second formula distributed the funds to the State areas on the basis of population weighted by general tax effort and weighted still further by inverse per capita relative income. This formula was designed to place more emphasis (than the first formula) on ability to pay as measured by inverse per capita income levels. Also, in measuring tax effort, it differs from the first formula in that it does not place any special emphasis on the use of State income taxes as distinguished from other taxes. Finally, this formula, instead of taking urbanization into account, uses general tax effort as a means of increasing distributions to those States in which larger cities are located.

The 3-factor (second) formula was also generally used to allocate the total share of the aid set aside for the local governments in each State area (two-thirds of the total State area allocation) among specific local governments. Additional flexibility in this latter respect was provided by allowing the States to choose by law to have the aid funds distributed among their local governments on the basis of an alternative formula instead of on the basis of the standard three-factor formula. Thus, a State could elect to have the distribution to local governments made on the basis of population weighted by general tax effort factor or population weighted by inverse relative per capita income levels factor or on the basis of any combination of these two factors.

The funds distributed to the local governments could be used only for certain priority purposes and in accordance with applicable State and local law. In the case of maintenance and operating expenditures, the funds could be spent for public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor or aged and financial administration. In addition, these funds could be used for capital expenditures authorized by law. All of the categories of expenditures listed above were limited in that the expenditures must be for ordinary and necessary purposes,

In general, the States were given complete flexibility in regard to expenditures of the aid funds, although they had to use the funds in accordance with applicable State law. However, to receive their full allocation, the States had generally to maintain their assistance to their local governments at the levels existing in fiscal year 1972. In determining the assistance provided by a State to its localities for this purpose, adjustments were made where the State provided additional tax sources to its localities or assumed financial responsibility for programs previously financed by its localities.

In addition to the limitations set out above, the aid funds could not be used by a State or local government in a way which discriminated because of race, color, sex or national origin. A further restriction prevented the aid funds from being used to pyramid Federal aid to State and local governments by prohibiting the use of these funds to match Federal funds under programs which make Federal aid contingent on a contribution by the State or local government. Finally, provision was made under certain circumstances to give individuals whose wages were paid out of the aid funds the protection of prevailing wage rates, pursuant to the Davis-Bacon Act.

State and local governments receiving aid funds also had to submit reports to the Treasury Department on how they used such funds in past periods as well as how (for periods beginning after December 31, 1972) they planned to use future aid funds. Copies of these reports had to be published in the press and made available to the news media so that the electorate could be kept fully informed.

Since enactment of the Act in 1972, there have been two amendments to it. The first, enacted in 1973, eliminated the reduction in payments to the District of Columbia in the event the District were to enact a commuter tax on Virginia and Maryland residents. Under the 1972 provision, every dollar of commuter tax would result in a dollar reduction in revenue sharing payments.

The second amendment, enacted in 1974, provides that the data of localities designated as disaster areas be kept unchanged for 60 months. To date, 190 governments have benefited from this provision; approximately 12,000 units are potentially eligible.

II. Summary of House Bill

Legislation to extend and revise general revenue sharing, the "Fiscal Assistance Amendments of 1976" ("the House bill") was passed by the House of Representatives on June 10, 1976. This part of the pamphlet summarizes by section the House bill and the changes it makes to the original 1972 legislation (the "Act"). Section 1 of the House bill provides for the short title and section 2 provides that any reference to "the Act" is a reference to the 1972 Act.

Sec. 3—Elimination of Expenditure Categories (Secs. 103 and 123(a) of the Act)

The House bill eliminates the requirement and related provisions of the Act that units of local government spend revenue sharing funds only for "priority expenditures." Under current law, "priority expenditures" refers to 8 categories of ordinary and necessary operating expenses (public safety, environmental protection, public transporta-

tion, health, recreation, libraries, social services for the poor or aged, and financial administration) and ordinary and necessary capital expenditures authorized by law.

Sec. 4—Elimination of Prohibition on Use of Funds for Matching (Sec. 104 of the Act)

The House bill eliminates the requirement that no revenue sharing funds be used by a State government or unit of local government directly or indirectly to obtain other Federal funds.

Sec. 5—Extension of the Program and Provision of Entitlement Funding (Secs. 105, 106, 107, 108, and 141 of the Act)

The House bill continues revenue sharing payments through September 30, 1980 (the end of Federal fiscal year 1980). Currently, payments of entitlements are at a $6.65 billion annual rate; payments of entitlements for the noncontiguous State adjustments (Alaska and Hawaii) are provided at a $4.78 million annual level. Under present law, funding grew from a $5.3 billion annual rate at the beginning of the program to the current $6.65 billion annual rate at the end of the program.

Sec. 6—Change of Base Year for State Maintenance of effort (sec. 107 of the Act)

The House bill requires State governments to maintain transfers to local governments at the fiscal year 1976 level. Under the present law, the maintenance of effort requirement is based on State transfers in fiscal year 1972.

Sec. 7—Eligibility Requirements—Definition of Unit of Local Government (sec. 108(d) of the Act)

Beginning October 1, 1977, a unit of local government, in addition to the requirement of current law that it be a general government, as defined by the Bureau of the Census, must perform certain functions in order to continue to receive revenue sharing payments. The unit of local government must impose taxes or receive intergovernmental transfers for substantial performance of two of fourteen enumerated categories: (i) police protection, (ii) courts and corrections, (iii) fire protection, (iv) health services, (v) social services for the poor or aged, (vi) public recreation, (vii) public libraries, (viii) zoning or land use planning, (ix) sewage disposal or water supply, (x) solid waste disposal, (xi) pollution abatement, (xii) road or street construction and maintenance, (xiii) mass transportation, and (xiv) education.

Also, at least 10 percent of a local government's expenditures must be spent in each of two of these fourteen service categories. This requirement is not to apply if the locality substantially performs four or more of these public services or performed (and continues to perform) two or more of the public services after January 1, 1976.

Sec. 8—Reports on Proposed and Actual Uses of Payments; Public Hearing Requirements; Notification and Publicity of Hearings and Access to Related Documents; Report of the Secretary of the Treasury (secs. 121 and 123 of the Act)

Proposed and Actual Use Reports

Under the House bill, State and local governments which expect to receive revenue sharing funds are to submit a report to the Secretary of the Treasury indicating how they expect to use the funds during the entitlement period. This proposed use report must compare such proposed uses with uses of the funds during the previous two entitlement periods. The report also must include a comparison of the proposed, current, and past use of revenue sharing funds showing the relevant functional items in the official budget involved and indicate whether the proposed use is for a new activity, expansion or continuation of an existing activity, tax stabilization or tax reduction. The Secretary is authorized to prescribe the form, detail and time at which the proposed use report is to be filed.

The House bill requires that, at the close of each entitlement period, each recipient is to submit a report on the actual use of the funds. The report, which is to be available to the public for inspection and reproduction, is to set forth the purposes for which the funds have been appropriated, spent, or obligated. It is to show the relationship of these funds to the official budget, and explain differences between the proposed and actual uses of the revenue sharing payments.

Under present law, recipients must file a planned use report and an actual use report. These reports do not compare uses of revenue sharing funds to the budget and do not make historical comparisons of the uses. Also, the House bill requires that discrepancies between proposed and subsequent actual uses be explained; the actual use reports do not now require this information.

Public Hearings

Two public hearings on the proposed uses of revenue sharing funds are required under the House bill. Current law has no public hearing requirements, although generally applicable budget processes must be followed.

Seven or more days before sending the proposed use reports to the Treasury, a recipient must hold a "prereport" hearing at which citizens are to be permitted to provide written and oral comment on the possible uses of the funds. There must be adequate notice of the hearing.

Seven days before the adoption of its budget, as provided under State and local law, a recipient must hold a second ("prebudget") hearing on the proposed uses of the revenue sharing funds. At this hearing, citizens may provide written and oral commemnt and are to have their questions answered concerning the entire budget and the relation of revenue sharing funds to it. The hearing must be before the body responsible for enacting the budget and is to be at a time and place to encourage public attendance and participation. Senior citizens and senior citizen organizations must have an opportunity to be heard in this hearing process.[1] If applicable State and

[1] The requirement with respect to senior citizens is made in Sec. 13 of the House bill.

local law already assures the opportunity for public attendance and participation contemplated by these two hearings, the Secretary may waive in whole or part the requirement that the two hearings be held.

Under current law, a recipient must spend its funds in accordance with applicable State and local law. Thus, if State or local law requires public hearings as part of the budgetary process, uses of revenue sharing funds as part of such a budget would be publicly considered.

Notification and Publicity of Hearings and Access to Documents

Under the House bill, thirty days before the prebudget hearing, each recipient government must publish conspicuously in a newspaper of general circulation a narrative summary of the entire budget and the time and place of the hearing. Also, the recipient must make available to the public in its main office, and at public libraries (if any) within the jurisdiction of the local government, and, in the case of State government, in the main libraries of major localities, the proposed use report, the narrative summary which was published in the newspaper, and the official budget. The official budget must show each item that is funded in whole or in part by revenue sharing.

Within thirty days after the adoption of its budget, the recipient government must similarly publish a narrative summary of the final budget, an explanation of differences in the final budget from that proposed, and the relationship between the revenue sharing funds and the functional items of the entire budget. In addition, the summary must be made available in the principal office of the recipient, in public libraries (if any) within the jurisdiction of the local recipient, and, in the case of a State government, in the main public libraries of the major municipalities of the State.

If the cost of the newspaper publication of the narrative summary is unreasonably burdensome in comparison to the revenue sharing payment, otherwise impractical, or the 30-day period before the prebudget hearing conflicts with applicable law, the Secretary of the Treasury may waive in whole or part the publication requirements or modify the 30-day requirement.

Both proposed and actual use reports, which are filed with the Secretary of the Treasury, are to be provided by the Treasury Department to the Governor of that State. Also, each recipient within a metropolitan area is to provide a copy of the proposed use report to certain specified areawide organizations.

Under present law, the planned and actual use reports must be published in newspapers of general circulation.

Report of the Secretary of the Treasury to Congress

The annual report of the Secretary of the Treasury is to be expanded to include a report on the implementation and administration of the nondiscrimination requirements (including the extent of noncompliance and the status of pending complaints), the extent to which citizens participate in the budgetary process, the extent to which recipient governments comply with the auditing requirements, the uses of revenue sharing funds by recipient governments and any administrative problems which have developed. Also, the date for submitting the annual report is changed from March 1 to January 15.

Sec. 9—Nondiscrimination Provision (sec. 122 of the Act)

The House bill restructures the nondiscrimination provisions of current law by providing: (i) a general prohibition against discrimination and applying the prohibition to all programs in a recipient's budget; (ii) an exception to this general prohibition where a recipient can prove by clear and convincing evidence that the program in which discrimination is alleged was not funded in whole or in part, directly or indirectly, with revenue sharing funds, and (iii) a series of procedures relating to the determination of whether initial findings of discrimination will result in a cutoff of revenue sharing funds by the Secretary. The House bill prohibits discrimination on the basis of race, color, religion, sex, national origin,[2] age,[3] or handicapped status [4] in any program or activity of a State government or unit of local government which State government or unit receives sharing funds.

Under present law, the nondiscrimination provision does not prohibit discrimination on the basis of either religion, age, or handicapped status. Also, the nondiscrimination provision of present law prohibits discrimination in any program or activity funded in whole or part with revenue sharing funds, while the House bill's general prohibition applies to any State or local unit of government where any program or activity of the State or unit of local government, whether or not specifically funded with revenue sharing funds, is involved in prohibited discrimination.

Notification of Finding or Determination of Discrimination

The House bill provides a procedure where, within 10 days of the occurrence of certain events, the Secretary of the Treasury is to notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of any affected unit of local government, that the State government, or unit of local government, as the case may be, is presumed not to be in compliance with the nondiscrimination provision. This notification is to request the Governor (and, also, the chief executive officer, if a local unit of government is affected) to secure compliance with the nondiscrimination provision.

The notification will be sent in either one of the following events:

(1) the receipt by the Secretary of a notice of finding by a Federal or State court or by a Federal or State administrative agency of a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age or handicapped status in any of the State's or local unit's activities or programs. The finding received by the Secretary must follow notice and opportunity for a hearing on the recipient's part and the finding must be rendered pursuant to procedures consistent with certain provisions of the Administrative Procedure Act (Subchapter II of chapter 5, USC); or

---

[2] The amended section directs that the prohibition against discrimination on account of race, color, religion, sex or national origin be interpreted in accordance with titles 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.

[3] The amended section directs that the prohibition against discrimination on account of age be interpreted in accordance with the Age Discrimination Act of 1975.

[4] The amended section directs that the prohibition against discrimination on account of handicapped status be interpreted in accordance with the Rehabilitation Act of 1973. The prohibition against discriminaton on account of handcapped status is not to apply to construction projects commenced prior to January 1, 1977.

(2) A determination by the Secretary, after an investigation, but prior to a hearing conducted by the Secretary regarding the matter, that a State government or unit of local government is not in compliance with the nondiscrimination provision. This determination by the Secretary will be made only after the State government or unit of local government has had an opportunity to make a documentary submission to the Secretary regarding the allegation of discrimination and whether the program or activity involved has been funded, directly or indirectly, with revenue sharing funds.

Voluntary Compliance Agreement

Under the House bill, after sending the notice to obtain compliance, the Secretary of Treasury may enter into an agreement with the affected State government or unit of local government setting forth the terms and conditions under which compliance would be accomplished. The agreement is to be signed by the Secretary and the Governor, and, where there is an affected unit of local government, also by the chief executive officer of the affected unit of local government. On or prior to the executive date of the agreement, the Secretary is required to send a copy of the agreement to each complainant, if any, respecting the violation involved. Moreover, the Governor, or the chief executive officer (in the event of a violation by a unit of local government) is required to file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days after the receipt of this report, the Secretary is to send copies thereof to each of the complainants involved.

Suspension and Termination of Payment of Funds

The House bill provides certain conditions under which suspension or termination of payment of revenue sharing funds is to occur. The Secretary is to suspend the payment of revenue sharing funds if within the 90-day period following notification of a recipient of noncompliance, (1) compliance has not been secured by the Governor of that State or the chief executive officer of the unit of local government involved, if any, and (2) at a preliminary hearing (described below), an administrative law judge has not made a determination that it is likely the State government or unit of local government would prevail at a full compliance hearing on the merits with respect to the issue of noncompliance.

If requested within the 90-day period following notification of noncompliance, a preliminary hearing is provided the recipient before an administrative law judge.[5] The determination by the administrative law judge that the recipient would prevail at a full compliance hearing on the merits with respect to the issue of the alleged noncompliance results in a deferral of the suspension of payment of revenue sharing funds. This deferral of suspension will end upon a finding of noncompliance by the Secretary in a full compliance hearing.

The suspension is to be effective for not more than 120 days or, if there is a full hearing before the Secretary, not more than 30 days

[5] Presumably, Federal, State, and local administrative law judges may preside at these hearings.

after the conclusion of this hearing. However, if, after notice and opportunity for hearing, the Secretary makes an express finding that the recipient is not in compliance with the nondiscrimination provision, the suspension continues indefinitely. The Secretary is required within the 120-day period following suspension, in the absence of a full hearing, to make a finding of compliance or noncompliance. His finding of noncompliance in this situation results in the indefinite suspension of the payment of revenue sharing funds and, where appropriate, his seeking of the repayment of funds previously paid.

Court actions instituted by the Attorney General may also result in either the suspension or termination of payment of revenue sharing funds. Thus, the Secretary is to suspend the payment of revenue sharing funds in the event that (1) the Attorney General files a civil action alleging a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, where the State or unit of local government receives revenue sharing funds, (2) the alleged discrimination violates the discrimination provisions of the amended act, and (3) within 45 days after the filing of the action, neither party is granted preliminary relief as may be otherwise available by law with respect to the suspension of payment of funds.

Also, under the House bill, the Attorney General's authority is expended 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. Under current law, the Attorney General is authorized to bring a civil action seeking "such relief as may be appropriate, including injunctive relief."

Resumption of Payment of Suspended Funds

The payment of suspended funds are to be resumed in the following instances:

(1) The recipient enters into a compliance agreement (as described above) with the Secretary;

(2) The recipient complies fully with the final order of a Federal or State court where the order covers all the matters raised by the Secretary in his notice of noncompliance to the recipients which precipitated the suspension;

(3) The recipient is found to be in compliance with the nondiscrimination provision by a Federal or State court;

(4) After a compliance hearing (as described below), the Secretary finds that the recipient is in compliance with the nondiscrimination provision; or

(5) In an action brought by the Attorney General, where the recipient failed to obtain preliminary relief within 45 days, thus resulting in a suspension of the payment of funds by the Secretary, the court ultimately orders resumption of payments.

Compliance Hearing

The House bill provides that at any time after notification of noncompliance by the Secretary, but before the expiration of the 120-day period following suspension of payment of funds, a State government or unit of local government may request a hearing, which the Secretary will be required to initiate within 30 days of the request. Within 30 days after the conclusion of the hearing, the Secretary is to make a finding of compliance or noncompliance. If the recipient does not request a hearing, the Secretary is required to make a finding of compliance or noncompliance within the 120-day period following suspension of payment of funds.

If the Secretary makes a finding of noncompliance, he is then required to (1) notify the Attorney General so that the Attorney General may institute a civil action with regard to the discriminatory acts of the recipient, (2) terminate the payment of revenue sharing funds, and (3) if appropriate, seek repayment of revenue sharing funds.

If the Secretary makes a finding of compliance, payment of the suspended funds is to resume.

The recipient government may appeal the Secretary's finding in the United States Court of Appeals for the circuit in which that government is located.

Agreements Between Agencies

The House bill provides that the Secretary will enter into agreements with State and other Federal agencies authorizing those agencies to investigate noncompliance with the nondiscrimination provision. The agreements are to describe the cooperative efforts to be undertaken by these agencies (including the sharing of enforcement personnel and resources) to secure compliance. Under this section, the Attorney General is to immediately notify the Secretary of any action instituted by him with respect to noncompliance with the revenue sharing and other nondiscrimination provisions.

Complaints and Compliance Reviews

A new section 124 is added to current law directing the Secretary to promulgate regulations by March 31, 1977, the regulations setting forth reasonable and specific time limits for response by the Secretary or the appropriate cooperating agency to a complaint by any person alleging discrimination under the nondiscrimination provisions 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 reviews of State governments and units of local government regarding compliance with these nondiscrimination provisions.

Secs. 9 and 14—Private Civil Actions

A new section 125 is added by the House bill providing 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 discrimination by a State government or a unit of local government in violation of the revenue sharing nondiscrimination provision, could seek such relief as

a temporary restraining order, preliminary or permanent injunction or other order, providing for the suspension, termination, repayment of funds, or placing any further payments of revenue sharing funds in escrow pending the outcome of the litigation.

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.

This new section also provides that the Attorney General may, upon timely application, intervene in one of these actions if he certifies that the action is of general public importance.

Sec. 10—Auditing and Accounting Requirements (sec. 123(a) of the Act)

Under the House bill, the Secretary is to require each recipient to conduct an annual independent audit of its financial accounts in accordance with generally accepted audit standards. The Secretary is authorized to require less formal audits and less frequent audits to the extent a complete audit would be unreasonably burdensome in terms of cost in relation to revenue sharing payments. The Comptroller General is directed to review the performance of the Secretary and the recipients for the purpose of evaluating compliance and operations under the amendment.

Sec. 11—Prohibition of Use of Funds for Lobbying Purposes (an addition to sec. 123 of the Act)

Under the House bill, a recipient may not use its revenue sharing funds directly or indirectly to influence any legislation regarding the provisions of the revenue sharing act; dues paid to national or State associations are excluded from this prohibition. Current law does not contain a comparable provision.

Sec. 12—Effective Date

Generally, the provisions take effect after December 31, 1976, except that section 5 (the funding and entitlement provisions) takes effect on the date of enactment, and section 7 (changing the definition of an eligible local unit of government) takes effect after September 30, 1977.

○