Public Law 94-488
94th Congress

An Act

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

Oct. 13, 1976
[H.R. 13367]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

State and Local Fiscal Assistance Amendments of 1976.

SECTION 1. SHORT TITLE.

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

31 USC 1221 note.

SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.

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

SEC. 3. ELIMINATION OF EXPENDITURE CATEGORIES.

(a) Section 103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed. Repeal. 31 USC 1222.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3). 31 USC 1243.

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

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed. Repeal. 31 USC 1223.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or". 31 USC 1263.

SEC. 5. EXTENSION OF PROGRAM AND FUNDING.

(a) IN GENERAL.—Section 105 (relating to funding for revenue sharing) is amended— 31 USC 1224.

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

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

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—In the case of any entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided for such entitlement period an amount equal to $6,650,000,000 times a fraction—

"(A) the numerator of which is the amount of the Federal individual income taxes collected in the last calendar year ending more than one year before the end of such entitlement period, and

"(B) the denominator of which is the amount of the Federal individual income taxes collected in the calendar year 1975.

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The amount determined under this paragraph is not to exceed $6,850,000,000.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—In the case of any entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided for such entitlement period an amount equal to $4,780,000 times a fraction—

"(A) the numerator of which is the amount of the Federal individual income taxes collected in the last calendar year ending more than one year before the end of such entitlement period, and

"(B) the denominator of which is the amount of the Federal individual income taxes collected in the calendar year 1975.

The amount determined under this paragraph is not to exceed $4,923,759.

"(3) ENTITLEMENT PERIODS.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning January 1, 1977, and ending September 30, 1977;

"(B) The entitlement period beginning October 1, 1977, and ending September 30, 1978;

"(C) The entitlement period beginning October 1, 1978, and ending September 30, 1979; and

"(D) The entitlement period beginning October 1, 1979, and ending September 30, 1980.

"(4) SHORT ENTITLEMENT PERIOD.—In the case of an entitlement period of 9 months which follows an entitlement period of 6 months—

"(A) the amount determined under paragraph (1) for such 9-month period shall be reduced by one-half the amount appropriated for such 6-month period under subsection (b)(1), and

"(B) the amount determined under paragraph (2) for such entitlement period shall be reduced by one-half the amount appropriated for such 6-month entitlement period under subsection (b)(2)."

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

(b) CONFORMING AMENDMENTS.—

31 USC 1225. (1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:

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

31 USC 1224. "(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

Ante, p. 2341. "(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the

amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows: 31 USC 1225.

"(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

"(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

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

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

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

"(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and 31 USC 1224.

"(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(2).". *Ante*, p. 2341.

(4) Section 106(c)(2) (relating to amount of noncontiguous State adjustments) is amended— 31 USC 1225.

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

(B) by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,". 31 USC 1224.

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than $200) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months". 31 USC 1227.

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

(7) Section 141(b) (relating to definition of "entitlement period") is amended by inserting at the end thereof the following new paragraphs: 31 USC 1261.

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

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

SEC. 6. SPECIAL ENTITLEMENT RULES.

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

31 USC 1226.

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

"(1) GENERAL RULE.—

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

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

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

"(B) POST-1976 ENTITLEMENT PERIODS.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

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

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

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

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

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

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

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into

account under clauses (i) and (ii) of paragraph (1)(B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

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

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

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence. 31 USC 1227.

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

(c) SEPARATE LAW ENFORCEMENT OFFICERS.—

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

"(e) SEPARATE LAW ENFORCEMENT OFFICERS.—

"(1) ENTITLEMENT OF SEPARATE LAW ENFORCEMENT OFFICERS.—The office of the separate law enforcement officer for any county area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area. The office of the separate law enforcement officer for the parish of East Baton Rouge shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 7.5 percent of the sum of the amounts which would (but for the provisions of this subsection) be the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each such entitlement period. Louisiana.

"(2) REDUCTION OF ENTITLEMENT OF COUNTY GOVERNMENT.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period. For the purpose of

applying this paragraph to the parish of East Baton Rouge, Louisiana, the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each entitlement period shall each be reduced by an amount equal to 3.75 percent of the amount which would (but for the provisions of this paragraph) be the entitlement of each such government.

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

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

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

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

(2) CONFORMING AMENDMENTS.—

31 USC 1227. (A) Section 108(b)(7)(A) (relating to general rule for adjustment of entitlement) is amended by striking out "and any adjustment required under paragraph (6)(D) last." and inserting in lieu thereof "any adjustment required under paragraph (6)(D) next, and any adjustment required under subsection (e) last.".

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

31 USC 1226. (C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

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

Ante, p. 2345.

(d) CURRENCY OF DATA.—

31 USC 1228. (1) Section 109(a)(7) (relating to data used and uniformity of data) is amended—

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

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

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

(2) Section 109(c)(2)(B) (defining "most recent reporting year") is amended by striking out "made before the close of such period." and inserting in lieu thereof "made before the beginning of such period.". 31 USC 1228.

(e) LIMITATION ON ADJUSTMENT OF PAYMENTS.—Section 102 (relating to payments to State and local governments) is amended— 31 USC 1221.

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

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

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

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

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

(g) RECOVERY OF CERTAIN OVERPAYMENTS.—In the case of an adjustment to decrease a payment made for an entitlement period ending before January 1, 1977, under title I of the State and Local Fiscal Assistance Act of 1972 to a unit of local government (as defined in section 108(d)(1) of that Act), the amount of such adjustment shall be withheld from the reserves for adjustments established by the Secretary under section 102(c) of such Act for the State within which such units of local government are located. Amounts withheld under this subsection shall be covered into the State and Local Government Fiscal Assistance Trust Fund. 31 USC 1221 note. 31 USC 1221. 31 USC 1227. *Supra.*

SEC. 7. CITIZEN PARTICIPATION; REPORTS, ENFORCEMENTS.

(a) CITIZENS PARTICIPATION.—Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows: 31 USC 1241.

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

"(a) 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 fiscal year, submit a report to the Secretary (which report shall be available to the public for inspection) setting forth the amounts and purposes for which funds received under subtitle A have been appropriated, spent, or obligated during such period and showing the relationship of those funds to the relevant functional items in the government's budget. Such report shall identify differences between the actual use of funds received and the proposed use of such funds. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe. Report to Secretary of the Treasury.

"(b) PUBLIC HEARINGS REQUIRED.—

"(1) HEARING ON PROPOSED USE.—Not less than 7 calendar days before its budget is presented to the governmental body responsible for enacting the budget, each State government or unit of local government which expends funds received under subtitle A Notice.

in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds before the governmental authority responsible for presenting the proposed budget to such body.

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

31 USC 1221.

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

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

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

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

Publication.

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

Public inspection.

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

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

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

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

"(2) WAIVER.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use of funds and the summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 10-day provisions of paragraph (1)(A) may be modified to the maximum extent necessary to comply with applicable State and local law if the Secretary is satisfied that the citizens of such State or local government will receive adequate notification of the proposed use of funds consistent with the intent of this section. 31 USC 1221.

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

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

"(f) REPORT OF THE SECRETARY.—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of— Report to Congress. 31 USC 1224.

"(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; *Post*, p. 2350.

"(2) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section; 31 USC 1243.

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

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

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

(b) ENFORCEMENT.—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new sections:

"SEC. 124. PRIVATE CIVIL ACTIONS.

"(a) STANDING.—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. 31 USC 1244.

"(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.

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

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

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

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

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

"SEC. 125. INVESTIGATIONS AND COMPLIANCE REVIEWS.

Regulations. 31 USC 1245. "By March 31, 1977, the Secretary shall promulgate regulations establishing—

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

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

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

31 USC 1263. (c) JUDICIAL REVIEW.—Section 143(a) (relating to petitions for judicial review) is amended by striking out "receives a notice of withholding of payments under section 104(b) or 123(b)," and inserting in lieu thereof "receives a notice of withholding of payments under section 104(b) or 123(b) a determination under section 122(b)(3)(C) that payments be suspended, or a determination under section 122(b)(3)(D) that payments be terminated,".

SEC. 8. NONDISCRIMINATION PROVISIONS.

31 USC 1242. (a) IN GENERAL.—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

"SEC. 122. NONDISCRIMINATION PROVISIONS.

"(a) PROHIBITION.—

"(1) IN GENERAL.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, hereafter referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

42 USC 6101 note.
29 USC 794.
42 USC 2000a note.
42 USC 3601.

"(2) EXCEPTIONS.—

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

31 USC 1221.

"(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.

Effective date.

"(b) DETERMINATION BY THE SECRETARY.—

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

"(2) PROCEDURE BEFORE SECRETARY; SUSPENSION OF PAYMENT OF REVENUE SHARING FUNDS.—Within 30 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

"(A) (except in the case of a holding described in subsection (c)(1)) whether there has been exclusion, denial, or discrimination on account of race, color, national orgin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, and

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

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

following such determination enters into a compliance agreement or requests a hearing with respect to such determination.

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

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

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

"(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary, subject to the provisions of subparagraph (D), shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then, subject to the provisions of subparagraph (D), that suspension is to be continued.

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

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

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

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

31 USC 1221.

42 USC 6101 note.

29 USC 794.

in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, in connection with any such program or activity. 42 USC 2000a note.

"(2) EFFECT ON PROCEEDINGS OR HEARING.—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of proceedings by the Secretary pursuant to subsection (b)(2) or a hearing pursuant to subsection (b)(3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, discrimination, or violation occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination (A) on the basis of age effected by the Age Discrimination Act of 1975, (B) with respect to an 'otherwise qualified handicapped individual', as provided in section 504 of the Rehabilitation Act of 1973, (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, shall be treated as conclusive. 42 USC 3601. 31 USC 1221. 42 USC 6101 note. 29 USC 794.

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

"(4) FINDING BY SECRETARY.—A finding is described in this paragraph if it is a finding by the Secretary with respect to a complaint referred to in section 124(d), a determination by a State or local administrative agency, or other information (pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a). *Ante*, p. 2349.

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

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

"(2) the Secretary and such chief executive officer, setting forth the terms and conditions with which such government or unit has agreed to comply that would satisfy the obligations of such government under subsection (a). Such agreement shall cover all the matters which had been determined or would constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (1), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint referred to in section 124(d) with respect to such failure to comply with subsection (a), or, in the case of an agreement under paragraph (1), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a). Copies.

"(e) RESUMPTION OF SUSPENDED PAYMENTS.—If payment to a State

31 USC 1221.

government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b)(2) or (b)(3), payment of such funds shall be resumed only if—

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

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

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

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

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

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

Civil actions.

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

"(h) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate 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 of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.".

SEC. 9. ACCOUNTING AND AUDITING PROVISIONS.

31 USC 1243.

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

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

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

"(1) INDEPENDENT AUDITS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after Janu-

ary 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

"(2) ELECTION.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable. 31 USC 1221.

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

"(4) ENTITLEMENTS UNDER $25,000.—

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

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

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

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

"(7) AUDIT OPINIONS.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.

"(8) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments and

the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

SEC. 10. MISCELLANEOUS PROVISIONS.

31 USC 1243 note.

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

31 USC 1227.

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

SEC. 11. STUDY OF REVENUE SHARING AND FEDERALISM.

31 USC 1261.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

"SEC. 145. STUDY OF REVENUE SHARING AND FEDERALISM.

31 USC 1265.

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

"(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

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

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

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

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

"(b) COOPERATION OF OTHER FEDERAL AGENCIES.—

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

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

Administrative support services.

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

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

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

SEC. 12. PROHIBITION ON USE FOR LOBBYING PURPOSES.

Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection: 31 USC 1243.

"(e) PROHIBITION OF USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.". 31 USC 1221.

SEC. 13. EFFECTIVE DATES.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977. 31 USC 1222 note.

(b) The amendment made by section 11 takes effect on February 1, 1977. 31 USC 1265 note.

Approved October 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1165, Part 1 and No. 94-1165, Part II (both from Comm. on Government Operations), No. 94-1165, Part 3 (Comm. on Appropriations) and No. 94-1720 (Comm. of Conference).

SENATE REPORT No. 94-1207 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 122 (1976): June 10, considered and passed House.
Sept. 13, 14, considered and passed Senate, amended.
Sept. 30, House receded and concurred in Senate amendment with an amendment; Senate agreed to House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 40 (1976): Sept. 30, Presidential statement.
Vol. 12, No. 42 (1976): Oct. 13, Presidential statement.