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
74-761 WASHINGTON : 1976 JCS 24-76

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, 513, 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

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[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.

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