State and Local Government and Politics

ESSENTIAL READINGS

HARRY A. BAILEY, JR.
JAY M. SHAFRITZ

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PREFACE

With libraries bulging from thousands of new books acquired each year and the ever-increasing concern for the wanton destruction of forests to make paper, nowadays one should have a solid explanation for bringing a new book into the world. As socially responsible editors we plead that we saw a need—a need for a comprehensive reader in state and local government dealing with the myriad changes in this field that have occurred during the last two decades.

"Laboratories of democracy" was a phrase first coined by Louis Brandeis (1856–1941), associate justice of the U.S. Supreme Court (1916–1939), to refer to state governments that develop innovative policies to deal with social and economic problems. The implication was that if the policies succeeded, they would be adopted by other states or by the federal government. Brandeis wrote in a dissenting opinion to *New State Ice Co.* v. *Liebmann* (1932):

> It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

One hesitates to contradict Brandeis, but conditions have changed. The states (as well as localities) no longer have the option to be innovative. Because of increased federal mandates, decreased federal funding, and constituent demands for increased services and lower tax rates, the states have had no choice but to probe the utmost depths of innovation. Unlike the federal government, state and local governments must balance budgets each year—and must make the hard policy choices necessary to achieve this. Thus it is increasingly true that policy analysts, public administrators, and elected officials now look locally for the kind

of innovative vigor that was once more expected of the national government.

A major impetus for this turn of events was the *New Federalism* of Presidents Ronald Reagan and George Bush. Beginning in 1981, they sought to return power and responsibility to the states and to dramatically reduce the role of the federal government in domestic programs. This had two phases: first, President Reagan's economic recovery program included reductions in the federal domestic spending (meaning nonmilitary) budget, the use of new *block grant programs** to give states greater flexibility in using federal monies, the reduction of the volume of new federal regulations, and tax reductions to stimulate the economy. Phase two was the return from the federal to state governments of some authority to tax, thereby increasing the revenue capacity of state governments. These goals have had a mixed success. The main problem is that federal funding has been cut at the same time as the states have been mandated to undertake hundreds of new functions relating to health, the environment, factory safety, and education, among others. The massive budget deficits run up by these two presidential administrations have made it almost impossible for the federal government to even consider a return to previous levels of federal funding. The states and their local governments consequently have had no choice but to cope as best they can.

All this is by way of asserting the newly claimed importance of studying state and local government. It is a subject of enhanced importance for those interested in politics, administration, and every aspect of the policy sciences. This collection designed for introductory courses in state and local government covers all the core areas: the intergovernmental framework (fiscal federalism), citizen participation, governors, legislatures, courts, taxation, education, and economic development. Included are representative pieces from many of the best-known writers in political science and public administration as well as selections from those whose reputations are still emerging. Our first criterion was naturally significance—a selection had to deal with a major continuing or newly evolving issue. But equally important was readability. We made every effort to select and edit items to make them accessible to a student

*A block grant is one distributed in accordance with a statutory formula for use in a variety of activities within a broad functional area, largely at the recipient's discretion. For example, the community development block grant program administered by the Department of Housing and Urban Development funds community and economic development programs in cities, on Indian reservations, and in U.S. territories. The nature of the block grant allows these jurisdictions to allocate the funds to supplement other resources in ways they choose.

audience. State and local government is the one subfield of political science that most crosses departmental boundaries. Indeed, it is often a required course for journalism and education majors as well as for government majors. The subject itself delves heavily into sociology, law, education, and economics as well as all of the expected concerns of political science and public administration. Thus for this multifaceted topic we offer this multifaceted text—one that we hope will bring a large measure of clarity to a sometimes confusing world of state and local government and politics.

We are indebted to many individuals who contributed to this book. First, we thank all of the authors and publishers for permission to reprint their fine materials. Second, valuable research assistance was furnished by David Dillard of Temple University's Paley Library and Meltem Muftuler, now a professor of political science at Bogazici University in Turkey.

Still others were generous with their time, expertise, and energy in our behalf. The reviewers and the editor commissioned by F. E. Peacock Publishers were uniformly helpful in their critiques; they were Professors William K. Hall of Bradley University, Kim Q. Hill of Texas A & M University, David G. Houghton of Western Michigan University, James Sheffield, Jr., of Wichita State University, Norman R. Luttbeg of Texas A & M University, and David Suffell of Ohio Northern University. We are especially grateful to Robert J. Cunningham of Lake Forest, Illinois, who edited our manuscript. His careful attention to important details and his helpful suggestions in the writing undoubtedly made this a more readable book.

Finally, we thank Mary L. Bailey and Luise A. Shafritz for their continuing support of all our work. They are the wind beneath our wings.

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CONTENTS

CHAPTER I

THE INTERGOVERNMENTAL FRAMEWORK FOR STATE AND LOCAL POLITICS

INTRODUCTION

An understanding of the constitutional framework within which the fifty states and over eighty thousand local governments operate is fundamental to the study of American state and local government.

Intergovernmental relations include the entire range of interactions among all the levels and types of governments. The formal relationships between the federal government and the states, to be sure, are considerably different from those between the states and their respective local governments. The federal-state relationship is based upon an association between sovereign entities. However, local governments are not sovereign. They are not legally equal to their states because they are essentially creations of their states.

Intergovernmental transfers of money, especially transfers of money from the federal government to the state governments and from the state government to the local governments, have been fundamental to the intergovernmental relationship.

Federal *grant-in-aid programs* to the states—that is, money granted to state or local governments for particular purposes—began as early as the Republic itself. Programs awarding funds directly to the localities began in earnest in 1932 and mushroomed during President Franklin D. Roosevelt's New Deal. The federal-local relationship continued to grow during President Lyndon B. Johnson's Great Society and into the mid-1970s.

During the 1980s, under President Ronald Reagan's New Federalism, the flow of dollars from the federal government to the state and local governments was reduced considerably. Recent figures indicate that the federal portion of state and local government expenditures peaked in 1978 at 26.5 percent, dropped to 20 percent in the mid-1980s, and has remained at around 18 percent ever since.[1] As a result, state and local governments must now rely more on their own in-house resources.

How the relationship among the federal, state, and local governments works in practice, especially the fiscal relationship, is the subject of the selections in this chapter. In Reading 1, "Intergovernmental Relations," Carl W. Stenberg provides a brief history of intergovernmental fiscal relationships in the United States. Next, David B. Walker, in his article "The State-Local Connection: Perennial, Paramount, Resurgent," examines federal-state linkages from the 1930s to the present.

NOTE

1. See Ann O'M. Bowman and Richard C. Kearney, *State and Local Government* (Boston: Houghton Mifflin, 1990), p. 54.

Reading 1

INTERGOVERNMENTAL RELATIONS

Carl W. Stenberg

According to Carl W. Stenberg, intergovernmental relations in the United States have been undergoing dramatic change as a result of the shift from a national to a more subnational (state- and local-oriented) federal system.

Stenberg notes that mounting federal deficits have caused the federal government to cut back on the spending which once made up a considerable part of state and local budgets. Thus future federal grant programs are not likely to play a considerable role in activities considered to be basically state or local.

An additional by-product of the federal government's fiscal condition, Stenberg suggests, is that it will increasingly focus only on matters, such as *entitlement programs* (for example, Social Security, Medicare, and food stamps), that transcend subnational boundaries and call for substantial expenditures on an equitable basis among the states. Thus the federal government will likely play a much diminished financial role in state and local affairs. Nevertheless, it will continue to intervene in subnational affairs by mandating state and local action without providing compensatory funding.

It appears to Stenberg that this new state- and local-oriented federalism has raised the concern that the states are incapable of filling the policy and financial gap left by the federal government. He argues to the contrary that states are much more capable now of effective and equitable governance, pointing to newly reformed state governments and the initiatives they have taken in a number of policy areas. Stenberg notes further that *states* have taken action to raise sufficient funds to maintain service levels and to fund the new initiatives necessitated by federal cutbacks.

While the national government has given the states and localities more autonomy in determining their own priorities, obstacles remain in the way of enlarged local government. Federal courts, for example, have made decisions in a number of policy areas that have resulted in reducing local autonomy and discretion. Among such decisions are those reaffirming that local governments are but creatures of the state

legislature, and that federal regulators can preempt local authority on wages and working conditions.

Although state aid to local governments has grown, much of this increase went to school districts rather than to general purpose units. Local governments which rely most heavily on property taxes find that these revenues are inadequate to meet growing citizen demands for needed services. Importantly, several other sources of revenue may be tapped by local government only with permission of its state. Thus local government is restricted in the discretion it has and in its capacity to look after its own needs. Stenberg concludes that how well the states respond to local needs will heavily influence the federalism of the future.

Intergovernmental relations have been in a period of dramatic and rapid change, unparalleled in recent history. As the pendulum swung over the past few years from a national to a more state and local-oriented federal system, the powers and responsibilities of all three levels of government were—and continue to be—"rebalanced."

The nature and effects of these shifts are not well understood, widely recognized or generally accepted. This article attempts to sort out some of the reality from the rhetoric surrounding the federalism debate of the 1980s. Key events and developments at each level are put into perspective and their longer-term significance is assessed.

THE FEDERAL ROLE IN FLUX

The federal budget has been the chief instrument of rebalancing intergovernmental relationships. The domestic program-cutting concerns of the early 1980s have been superseded by deficit-financing fears. The "guns versus butter" debate of an earlier decade has been reopened and recast. Questions have been raised not only about the amount and pace of the defense buildup, but also now about the entitlement buildup, especially in the areas of income support and medical care.

Intergovernmental fiscal positions have shifted as well. The rate of state and local spending, which since the Korean War had grown faster

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Source: Carl W. Stenberg, "Intergovernmental Relations," *The Book of the States, 1984–85* (Lexington, Kentucky: Council of State Governments, 1984), pp. 15–17.

than that of the federal government, was braked sharply in the late 1970s by the recession, Proposition 13–type fiscal limits and federal aid cuts. Austerity measures, tax hikes and the national economic recovery have improved the fiscal condition of many states and turned budget deficits into surpluses. In contrast, the federal government has become the big spender as well as the big borrower in the public sector. Mounting federal deficits have bolstered efforts to discipline federal fiscal decision-making through a balanced budget amendment to the Constitution and other means.

The intergovernmental significance of these developments is at least four-fold:

- First, the role of federal grant programs in state and local affairs will not be as great as during the last two decades. The growth rate of federal aid as a percentage of state and local expenditures began to taper off during the Carter administration. The pressures from the deficit, defense and entitlement sides of the federal budget and the presence of surpluses in several states make substantial reversal of this trend unlikely.
- Second, despite these changes, congressional entrepreneurs will not refrain from launching new program initiatives aimed toward essentially state or local matters. Quite the contrary, as underscored by recently enacted surface transportation, drunk driving, and employment and training laws, national responses to highly visible subnational problems will continue; however, they will be more difficult to pass. Moreover, while federal budget constraints may make Congress less inclined to play the role of city council or county board of supervisors, there may well be a strong temptation to demonstrate its concern by mandating state and local action without providing compensatory funding.
- Third, even though there has been a 25 percent reduction in the number of categorical programs, the basic shape of the federal aid system has not changed much. Despite the enactment of 10 block grants since 1980 and the renewal of general revenue sharing, approximately four-fifths of all federal aid is delivered through categorical programs—about the same percentage as in the late 1970s. As a result, while in certain programs recipient flexibility has increased, the system overall has not become more discretionary.
- Fourth, the drive to reduce federal deficits through such revenue enhancing strategies as raising tax rates, closing loopholes or levying new taxes will have major intergovernmental implications. For example, proposals calling for the federal government to dip into state or lo-

cal tax wells, such as consumption levies, or to end preferred fiscal positions, such as the tax-exempt status of state and local bonds, will create tension and conflict.

Given these developments, in the years ahead we can expect to see greater congressional reluctance to shoulder financial responsibilities for activities considered to be basically state or local, more willingness to enact mandates without providing money, and continued desire to hold on to the categorical program reins. One by-product of these responses, noted by the Advisory Commission on Intergovernmental Relations, might well be movement toward a *de facto* sorting out of responsibilities. The federal domestic role may focus increasingly on national issues or problems that clearly transcend state boundaries, require a nationwide minimum level of effort, call for substantial expenditures, and involve equity between states. Many entitlement programs would qualify under these standards.

The failure of President Reagan's plan to trade federalization of Medicaid and food stamps for state assumption of welfare as well as takeover of a number of smaller programs has been viewed by some observers as a rare historic opportunity that was missed. Yet the aborted "great swap" of 1982 did put federalism on the front pages of the nation's newspapers and did cause public officials to think more seriously about who does what. If nothing else, the attempt helped sow the seeds for a sorting out effort driven by fiscal pragmatism rather than political philosophy.

STATES UNDER THE SPOTLIGHT

The prospects of a state and local-oriented federalism, with the states in particular being expected to assume previously federal or federally assisted responsibilities, have caused some consternation among members of Congress, the federal bureaucracy, interest groups and the private sector. Often these individuals believe the states to be incapable and insensitive, and they doubt that the states will move to compensate for cuts in federal domestic programs or to assume leadership in meeting citizen needs.

Recent research suggests a different conclusion—that the states are more capable now than ever before of effective and equitable governance. The reformers' checklist has been achieved in most states: constitutions have been simplified; governors and legislatures have been strengthened; executive branches have been streamlined; and court systems have been modernized.