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Floor Statement on the Intergovernmental Revenue Act of 1971

Edmund S. Muskie

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Senate

INTERGOVERNMENTAL REVENUE ACT OF 1971

Mr. MUSKIE. Mr. President, I am today introducing the Intergovernmental Revenue Act of 1971. I ask unanimous consent that the bill and a section-by-section analysis, with exhibits, be printed in the RECORD following these remarks.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. MUSKIE. Mr. President, our States, cities and counties are in dire need of financial assistance. The Congress must respond to their call for help. We cannot continue to allow local governments to face, as many of them now do, either financial insolvency or forced cutbacks in such necessary services as police and fire protection, health care, and education of our children.

The bill I introduce today would meet the financial crisis of State and local governments directly. It is based on the 1969 recommendations of the Advisory Commission on Intergovernmental Relations. I first introduced this bill with former Senator Goodell in June 1969, and it has been substantially revised after 7 days of hearings in the last Congress.

Again this year, it will receive a thorough airing before the Subcommittee on Intergovernmental Relations, which I chair.

The concept of revenue sharing has gained solid backing from the Governors of our States and the mayors of our cities. It has received strong support from the American people. It is not difficult to understand why.

Today, as in the past, we must rely on the States and localities to provide the functions which are performed best by the levels of government closest to the people—essential services such as keeping the streets safe and clean, building and maintaining decent schools, collecting trash on a regular basis and building adequate sewer systems. Yet, in increasing numbers, State and local governments cannot find the financial resources to pay for these services.

This inability of State and local governments to meet their bills, in large part, is a result of a fiscal imbalance in our Federal system which must be corrected.

By a "fiscal imbalance" I mean simply there exists today a great imbalance in revenue raising capacity between the Federal Government and the State and local governments. To a significant extent, that imbalance exists because the States have not effectively utilized the most lucrative source of tax revenue—the income tax.

Ever since the Federal income tax was enacted, the discrepancy between the revenue raising capacity of the Federal Government and State and local governments has grown. Income taxes provide the greatest single portion of the revenue raised by government. And, in 1969, 91.1 percent of all income taxes in the United States were collected by the Federal Government.

The income tax is extremely lucrative because its returns grow automatically as the economy expands. Every time the economy expands one percent Federal income tax revenues increase 1.5 percent.

Many State governments, for whatever reason, have not tapped the income tax as a principle source of revenue, and many communities are barred from use of the income tax by State law. These governments have relied on property and sales taxes for the greatest part of their taxes. Unlike the income tax, revenues from property and sales taxes do not necessarily reflect growth in the economy as a whole. Furthermore, the property tax is now being used to finance services—such as social services—which it was not designed to pay for.

That means that when State and local governments want to increase police protection or build better schools, or just stay even with the added costs of inflation, they are forced to either raise existing taxes or levy new taxes. In the past 12 years alone, in order to increase their revenue at roughly the same rate Federal income tax revenues have increased, State governments have raised tax rates or enacted new taxes no less than 450 times. During the same period the Federal income tax rate has actually decreased.

If State and local governments could utilize the income tax as effectively as the Federal Government has done, they doubtlessly would not be in the position of having to continually call on their citizens to pay higher tax rates. But they have not, and we must look to the future rather than the past.

Now, the revenue pools of State and local governments are running dry. Some experts have, in fact, predicted that next year the incomes of State and local governments will run $10 billion short of their expenditures.

The results of this inability of State and local governments to raise enough tax revenue to pay for the increasing cost of government are clear.

In many States, including the one which taxes its citizens the heaviest, programs are cut back or delayed for lack of money at the same time that taxes are increased.

In Massachusetts, earlier this year, the Governor placed a freeze on State government hiring to hold down costs. In Kentucky, the legislature slashed $16 million from the budget across the board to stave off going into the red.

In many larger cities, insufficient funds have forced mayors to cut public payrolls, put off needed capital improvements, and reduced the quantity and quality of public services. In Cleveland and Detroit, city employees have been laid off because the city governments could not afford to pay them.

In some communities, citizens have voted to close their schools rather than approve tax levies to pay for them.

We in the Congress may find comfort in the argument that the fiscal crisis confronting our States, cities and counties is of their own making—that is the result of their failure to enact modern forms of taxation or to reform inefficient systems of government. But criticism will not solve the problem. State and local governments need more money now, and they need Federal assistance in modernizing their own tax structures so they can meet more of their needs with their own resources.

Revenue sharing is one way to provide more money now, and to provide as well strong incentives for reforming State tax systems.

The purposes of the Intergovernmental Revenue Act are to provide immediate fiscal relief for our State and local governments which so badly need it, to restore State and local governments to more equal partnership in our Federal

system by allowing them to share in the benefits of the Federal income tax, to help our Federal-State-local tax system become more progressive, to assist the economically weaker States to improve their services without increasing the burden on their already overtaxed taxpayers, to stimulate tax efforts at all levels of government, and to provide significant assistance to the economically distressed urban areas.

In its first full year, the bill will create a $6 billion fund of Federal revenues to be shared with State and local governmental units. That fund will be made up of 1.3 percent of the total taxable income of Federal tax returns and 10 percent of the total amount of income taxes collected by State governments across the Nation.

The 10-percent bonus for State income tax collections, which would be returned on a proportional basis to States with income taxes, would provide $1 billion more in revenue sharing than under the administration's plan in the first full year. These additional funds—and more funds for other programs directed at the needs of our people—can be made available without increasing this projected budget deficit. They can easily be made available by reducing wasteful expenditures for extravagant military hardware that do nothing to add to our national defense or by ending our involvement in that costly and fruitless war in Southeast Asia.

I, by no means, want to imply that the only differences between the bill I am introducing today and the administration's revenue-sharing proposal is that my bill provides more money. There are several significant differences.

First, this bill is a general revenue-sharing bill which is in no way tied to special revenue sharing. As such, it is not intended to replace or allow cutbacks in existing categorical grant programs. Revenue sharing and categorical grant programs provide solutions to different problems within our federal system, and their roles must not be confused or combined. Both of them are needed.

Revenue sharing is needed because the distribution of income and wealth varies so widely throughout the country. There are vast differences in the taxpaying ability of the various communities across the Nation. As a result, all governmental units cannot provide all the necessary services and facilities their people need. It is this specific problem in the federal system which revenue sharing is intended to solve.

At the same time, however, we must continue and expand Federal categorical assistance. These programs are directed at critical problems, national in scope, which must be attacked by the Federal Government, because the States and localities alone cannot deal with them, or have not dealt with them effectively in the past. Many States and communities have not responded affirmatively to demands for equal opportunity for all their citizens. Many have responded with less vigor than others to the educational needs of their people, and to the poor families who must rely on public assistance.

Revenue sharing is not the answer to these problems. That is why we need categorical assistance programs, and that is why it is not the intention of my revenue-sharing proposal to attempt to replace such programs. Our national domestic problems are so grave today, that we must not talk about gutting categorical grant programs; we must consider ways to expand them.

Second, the fund in my bill has been designed to expand automatically and rapidly. The reason for this is that the revenue-sharing fund is based not only on a fixed percentage of Federal taxable income, but it is also tied to the rapidly expanding State income taxes.

Through the 10-percent bonus for State income taxes and through an option which authorizes State income tax collection by the Federal Government, the bill includes strong incentives for the States to make greater use of the progressive income tax. The $1 billion in additional money provided by this bonus would be shared on an equitable basis by the States which have income taxes and their local communities.

Third, this legislation provides for an equitable apportionment of shared revenues to cities, counties, and townships within the States—with a special emphasis placed on a community's need.

It permits the States and local governments to agree on a formula for distribution of shared revenues to local governmental units.

It requires the States to make a fair and equitable distribution to governmental units of less than 25,000 population based on such factors as need, population, tax burden and revenue raising effort.

It guarantees weighted shares to cities, counties, and townships of more than 100,000 with a high percentage of low-income residents and public assistance recipients and to cities between 25,000 and 100,000 with substantial need measured by the number of low-income families.

Thus, this legislation would in effect compensate those large cities, counties, and townships in which a substantial percentage of the population is too poor to pay taxes. It does so by giving those communities additional assistance. The city of Baltimore, for example, which has a high percentage of poor people in comparison with the rest of its State, and which has made a considerable effort to raise revenues from local taxes, would receive more than three times as much shared revenue as it would under the administration's bill.

Fourth, this bill would guard against the use of funds to perpetuate discrimination by providing a mechanism through which any individual can file suit against a governmental unit which he believes is using money it receives under this act in a discriminatory manner. It does not rely on the inclination of officials in Washington to enforce civil rights laws as the sole safeguard against the use of shared revenues for discriminatory purposes. The President's bill has no such provision.

Fifth, this bill as a convenience to the States, contains a provision giving the States the option of having the Federal Government collect their State income taxes.

Mr. President, several weeks ago, I had the privilege of addressing the leaders of our cities on the subject of revenue sharing. In that speech I set down several objectives I believe revenue-sharing legislation must meet.

It must not be a substitute for, or a basis for reducing the funding of, categorical assistance programs.

It must allocate funds within the States in proportion to need.

It must provide adequate safeguards against the use of funds to perpetuate discrimination.

My belief has not changed.

And I believe the legislation I introduce today meets the criteria for revenue sharing I set out in my speech to the city officials.

It would provide State and local governments with much needed financial assistance without scrapping vital categorical aid programs.

It recognizes the need factor in apportioning assistance to local government units within the States.

It contains adequate safeguards against funds being used for discriminatory purposes.

The bill I introduce today will not, in itself, reverse the order of our national priorities. It will, in itself, offer no panacea to the financial difficulties of State and local governments. But it will help. And it provides a logical and workable beginning toward correcting the fiscal imbalance in our system that we in the Federal legislature have allowed to exist too long.

Mr. President, I expect that during the hearings and in committee, this bill will be revised. Indeed, I welcome the help of my colleagues on both sides of the aisle—especially that of my good friend Senator Baker who most eloquently argued for the cause of revenue sharing in introducing the administration's bill—in improving this legislation. But if the Congress is to enact revenue-sharing legislation this year—and I believe we must—we need a sound basis on which to begin. I believe this bill provides that sound basis.

EXHIBIT 1

S. 1770

A bill to establish a system of general support grants to State and local governments; to authorize Federal collection of State income taxes; and to encourage modernization of State tax systems

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intergovernmental Revenue Act of 1971."

DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that an imbalance exists between the revenue capacity of the Federal Government and the revenue capacities of State and local governments; that this imbalance exists largely because the Federal Government has better utilized the individual income tax as a revenue raising measure than have State and local gov-

ernments; that because of their inability to raise adequate revenue State and local governments have found it difficult to pay for the essential services they must provide for their residents; and that the financial crisis of State and local governments could be eased significantly if they received general financial assistance from the Federal Government and if they better utilized the individual income tax as a revenue raising measure.

(b) Therefore, the Congress declares it to be the policy of the United States to provide general financial assistance payments to the States and local governmental units to help them pay for essential governmental services; to allow State and local governments to share in the benefits of the Federal income tax; and to encourage the States to make better use of the income tax themselves.

TITLE I—GENERAL SUPPORT PAYMENTS TO STATES AND THEIR POLITICAL SUBDIVISIONS

DEFINITIONS

SEC. 101. For purposes of this Act—

(1) "Secretary" means the Secretary of the Treasury;

(2) "State" means the several States and the District of Columbia;

(3) "State entitlement" shall mean the general support payment to which a State is entitled under section 104 of this Act;

(4) "taxable income" means taxable income as defined in section 63 of the Internal Revenue Code of 1954 as shown by returns made by individuals of the tax imposed by chapter 1 of such Code;

(5) "total personal income" means the aggregate personal income for residents of a State as defined by the Office of Business Economics of the Department of Commerce;

(6) "revenue ratio" of a State, city, county, or township means the ratio, for the most recent annual period for which usable data are available, between—

(A) the total receipts from all taxes (as defined by the Bureau of the Census of the Department of Commerce) imposed by such State, city, county, or township; and

(B) the total receipts from all taxes (as defined by the Bureau of the Census of the Department of Commerce) imposed by the State and all its political subdivisions;

(7) "population ratio" of a city, county, or township having a population between twenty-five thousand and ninety-nine thousand nine hundred and ninety-nine shall be 50 percent or the percentage by which the population of the city, county, or township exceeds fifty thousand, whichever is greater;

(8)(A) "Poverty ratio" of a city, county, or township shall be 1.25 or such lesser number obtained by—adding the low-income ratio of such unit of government to its welfare ratio, and dividing the resulting sum by two.

(B) The "low-income ratio" of a unit of government shall be the ratio which the percentage of families in such unit of government having annual incomes of less than $3,000 (or such higher amount as may be established by or pursuant to the latest data available from the Department of Commerce) bears to the percentage of such families in the entire State.

(C) The "welfare ratio" of a unit of government shall be the ratio which the percentage of families in such unit of government who regularly receive assistance, under a Federal, State, or local program of public assistance, bears to the percentage of such families in the entire State.

GENERAL SUPPORT FUND

SEC. 102. (a) There is hereby appropriated for a general support grant for each of the five fiscal years beginning on or after July 1, 1971, and ending on or after June 30, 1976, an amount as determined by the Secretary equal to the amount obtained by adding—

(1) 1.3 percent of aggregate taxable income reported on Federal individual income tax returns for the calendar year for which the latest published statistical data are available from the Department of the Treasury at the beginning of such fiscal year, and

(2) 10 percent of the State personal income taxes collected by all the States for the latest twelve-month period preceding the fiscal year for which published statistical data are available from the Bureau of the Census.

(b) In each of the first three years following the enactment of this Act, the Secretary shall deduct an amount not to exceed one-half of 1 percent of the amount appropriated under this title for the purpose of enabling the Secretary to carry out his duties and responsibilities, including the provision of any requisite statistical or data gathering activities required under this Act. The Secretary is hereby authorized to spend the amount so deducted for such purposes as in his discretion will facilitate the equitable distribution of the general support grants established by this Act.

BASIC PAYMENTS TO THE STATES

SEC. 103. Subject to the provisions and qualifications of this Act, the Secretary shall, during the fiscal year beginning July 1, 1971, and during each fiscal year thereafter, pay to each State from amounts appropriated under this title for the fiscal year in which payments are made, a total amount equal to the entitlement of the State under section 104. Such payments shall be made in installments periodically during any fiscal year but not less often than once each quarter. Proper adjustments shall be made in the amount of payment to each State to the extent that payments previously made were in excess of or less than the amounts required to be paid. Adjustments in payments by the Secretary under this section shall be final and conclusive.

STATE ENTITLEMENT

SEC. 104. (a) The Secretary shall determine the basic entitlement of each State to an amount of support grants during the fiscal year beginning July 1, 1971, and during each fiscal year thereafter as provided in this section.

(b) The total entitlement for each State for each fiscal year shall be the amount equal to the sum of—

(1) the amount appropriated under this title pursuant to subsection 102(a)(1) (and not deducted pursuant to subsection 102(b)) multiplied by the ratio of the product obtained by multiplying the total resident population of the State for the fiscal year by the tax effort factor of the State and then dividing such product by the sum of such products for all States, and

(2) 10 percent of the State personal income tax collections of the State for the preceding fiscal year as determined by the Secretary pursuant to section 102(a).

(c) For purposes of subsection (b), a State's tax effort factor for any fiscal year is the result obtained by dividing (1) the annual total of State and local taxes plus the net profits from the operation of State-owned liquor stores collected by the State and its political subdivisions by (2) the total personal income of individuals residing in the State for a closely related annual period.

QUALIFYING AGREEMENTS WITH THE SECRETARY

SEC. 105. (a) In order for any State or local government to qualify for any payments provided by this Act, the Governor of the State, on behalf of his State and any recipient political subdivisions, shall enter an agreement with the Secretary assuring—

(1) that such payments shall be used solely for governmental purposes;

(2) that the State and its political subdivisions shall adhere to the same methods of public scrutiny and debate over the use of funds and the same budgetary process, laws, and responsibility with respect to the fiscal control and accountability for all payments received under this Act as they do with respect to funds derived from their own taxing powers, and the State will report annually to the Secretary, at such time as he may prescribe, on the disposition of such payments. If the Secretary so prescribes, such report shall include a five-year projection of State government expenditures.

(3) That, except as required by this Act, the State shall impose no restrictions on the use of funds distributed to political subdivisions which are not applicable to the use of funds which its political subdivisions derive from their own taxing powers, other than to prohibit a political subdivision from spending any portion of the funds distributed to it for purposes which are in conflict with any State plan enacted into law dealing with the utilization and development of the State's human and physical resources or particular aspects thereof;

(4) that the State shall confirm by annual reports filed with the Secretary following each of the first three years after the effective date of this Act, that the State distributed to each city, county, and township government for which an allocable share is specified in this Act, a total amount not less than the sum of the annual amount allocable to that government under this Act plus all amounts it received from the State during the State fiscal year that ended in calendar 1970, or demonstrate to the satisfaction of the Secretary that any failure to meet this requirement is entirely offset by the intervening transfer from the local government to the State of financial responsibility for direct support of particular services or facilities;

(5) that the State and its political subdivisions shall adhere to all applicable Federal laws in connection with any activity, program, or service provided solely or in part from any funds received by a State or its political subdivisions under this Act;

(6) that the State and its political subdivisions shall make reports to the Secretary, the Congress, and the Comptroller General in such form and containing such information as they may reasonably require to carry out their functions under this Act, and provide to the Secretary or his representatives, on reasonable notice, access to, and the right to examine, any books, documents, papers, or records as he may reasonably require for the purposes of reviewing compliance with this Act.

(b) Each State shall distribute in each fiscal year out of payments of the State entitlement—

(1) to each city, county, and township having within its boundaries a population of one hundred thousand or more an amount not less than the product obtained by multiplying (A) the general support entitlement for the State under section 104 by (B) twice the local revenue ratio of the city, county, or township, and (C) the poverty ratio of the city, county, or township.

(2) to each city, county, and township having within its boundaries a population between twenty-five thousand and ninety-nine thousand nine hundred and ninety-nine an amount not less than the product obtained by multiplying (A) the general support entitlement for the State under section 104 by (B) a fraction representing the product of (i) twice the local revenue ratio of the city, county, or township, (ii) the population ratio of the city, county, or township, and (iii) the poverty ratio of the city, county, or township; and

(3) to other units of government within the State (which may include independent school districts) an amount established pursuant to State law: *Provided, however,* That in no event shall the State withhold from distribution to political subdivisions in any year an amount in excess of 30% of the State entitlement or the product obtained by multiplying the State entitlement for such year by the revenue ratio of the State, whichever is lower. Such distribution to other units of government (and the inclusion or exclusion of units of government) shall be fair and equitable, but may favor units of government which service relatively greater populations, contain relatively more low-income families, or have high local tax burdens in relation to individual income, as compared with similar units of government within the State.

(4) In no event shall any political subdivision of a State receive under subsection 105 (b) an amount in excess of 30% of the State entitlement.

(c) To encourage States to take the initiative in strengthening the fiscal position of local units of government and to maximize flexibility in the use of general support payments for meeting the particular needs of differing State-local fiscal systems, the Secretary shall accept an alternative plan for the distribution of general support funds made available to local units of government under this section, provided the plan is enacted by the State legislature and conforms to at least one of the following conditions:

(1) Each city, county, and township having a population of 25,000 or more receives a total amount under the State alternative plan equal to or greater than the general support payment it would otherwise have allocated to it under the provisions of this section.

(2) The governing bodies of cities, counties, and townships which comprise at least 50 percent of the governments otherwise entitled to receive general support payments pursuant to subsection 105(b)(1) and (2), and which together would be entitled to receive at least 50 percent of such general support payments required to be distributed pursuant to such subsections, concur by formal resolution, that the State's alternative plan will result in the use of general support funds that accords better with the requirements of the State and its local units of government.

(d) The proposed State alternative plan as authorized in subsecton (c) shall be submitted to the Secretary with such supporting information as he may require annually not later than ninety days preceding the fiscal year to which the plan pertains. In the event of the acceptance of such an alternative plan, its provisions shall govern the use of funds otherwise allocated by this Act to cities, counties, and townships.

(e) Determinations under this section of this Act shall be made by the Secretary on the basis of the most recent acceptance data available from the Department of Commerce.

POWERS OF THE SECRETARY

SEC. 106. (a) Not later than two years following enactment of this Act, the Secretary of the Treasury shall make such recommendations to Congress as may be necessary to make more equitable the allocation of funds under this Act to States and to local units of government. Such recommendations shall be based on data which takes into account such factors as personal income, market value of taxable property, effective rates of property and other local taxes, and other factors for measuring the relative tax efforts of units of government.

(b) The Secretary is authorized to obtain from other Federal agencies statistical data, reports, studies, and other materials which he deems necessary to discharge his responsibilities under this section, and Federal agencies shall carry out their statistical functions in such manner as will, to the maximum extent permitted by other applicable law, assist the Secretary in carrying out his duties and responsibilities under this section.

(c) For the first three fiscal years following the enactment of this Act, the Secretary shall reimburse, with funds provided to him in section 102(b), Federal agencies for the cost of providing any data which in his discretion are necessary for the proper administration of this Act. For subsequent fiscal years there are authorized to be appropriated sums sufficient to enable Federal agencies to provide information required by the Secretary for the administration of this Act.

(d) Whenever the Secretary finds, after reasonable notice and opportunity for hearing to the Governor of a State, that there is a failure by such State to comply substantially with any undertaking required by section 105, the Secretary shall notify the Governor that further payments under this Act will be withheld until the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall withhold payments to such State in excess of the amounts to which the political subdivisions of such State are entitled under section 105(b). In the case of the failure of the State to comply, for a period in excess of six months after receipt of notice, the Secretary shall forthwith cancel any payments withheld pursuant to this paragraph for the current and for any subsequent fiscal year and shall reapportion and pay such cancelled payments to all other States then entitled to receive payments under section 104 in proportion to the original installments paid to such States for the fiscal year to which such cancelled payments pertain. Such payments to all other States shall be considered payments made pursuant to section 104.

(e) Whenever the Secretary finds, after reasonable notice and opportunity for hearing to the Governor and a political subdivision of a State, that there is a failure by such political subdivision to comply substantially with any undertaking required by section 105, the Secretary shall notify the Governor and political subdivision that further payments under this Act will be withheld until the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall direct the Governor to withhold an amount of the payments to the State allocable to such political subdivision under the plan then in effect in the State. In the event of a failure by such local government to comply for a period in excess of six months after the receipt of notice, the Secretary shall direct the Governor to forthwith cancel any payments withheld for the current and for any subsequent fiscal year for which there is noncompliance, and the Governor shall reapportion and pay such payments to all other political subdivisions of such State then entitled to receive payments pursuant to section 105(b), in proportion to the original payments made to such political subdivisions for the fiscal year to which the cancelled payments pertain.

JUDICIAL REVIEW

SEC. 107. (a) Any State which receives notice under section 106 that payments to it will be withheld may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of the Secretary's action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

(b) In accordance with the provisions of this subsection, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. However, if any finding is inconsistent with the preceding sentence and is not supported by substantial evidence, the court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PROHIBITION AGAINST DISCRIMINATION

SEC. 108. (a) The provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) shall apply to any activity, program, or service financed in whole or in part from any funds received by any State or its political subdivisions under this Act. The Secretary of the Treasury shall promulgate regulations to carry out the provisions of such title VI with respect to the distribution and use of any funds under this Act. Whenever the Secretary of the Treasury determines that any State or political subdivision receiving funds under this Act has failed to comply with the provisions of such title VI, or any regulation of the Secretary promulgated with respect thereto, he is authorized to (1) refer the matter to the Attorney General with a recommendation that appropriate action be instituted, (2) exercise the powers and functions provided by such title VI, or (3) take such other action as may be provided by law.

(b) Any person adversely affected or aggrieved by an action of an official of a State or political subdivision thereof in violation of subsection (a) of this section, or in violation of regulations promulgated by the Secretary of the Treasury pursuant thereto, may bring a civil action for relief on his own behalf or on behalf of a class of persons similarly situated against such official. Any such action may be in any district court of the United States in which such person resides, or in which the claim arose, or in the United States District Court for the District of Columbia. The court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security.

(c) In any action commenced pursuant to this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person.

(d) In the case of an alleged act or practice prohibited by this section which occurs in a State, or political subdivision of a State, which has a State or local law prohibiting such act or practice and establishing or au-

thorizing a State or local authority to grant or seek relief from such practice or to institute proceedings with respect thereto upon receiving notice thereof, no civil action may be brought under this section before the expiration of thirty days after written notice of such alleged act or practice has been given to the appropriate State or local authority by registered mail or in person, provided that the court may stay proceedings in such civil action pending the termination of State or local enforcement proceedings.

REPORT BY SECRETARY

SEC. 109. The Secretary shall report to the Congress not later than the first day of March of each year on the operation under this title during the preceding fiscal year and on its expected operation during the current fiscal year. Each such report shall include a statement of the appropriations to, and the disbursements made from, the trust fund during the preceding fiscal year; an estimate of the expected appropriation to, and disbursements to be made from, the trust fund during the current fiscal year; and any changes recommended by the Secretary concerning the operation of the trust fund.

CONGRESSIONAL STUDY

SEC. 110. (a) The Appropriations Committee and the Finance Committee of the Senate and the Appropriations Committee and the Ways and Means Committee of the House of Representatives shall conduct full and complete studies, at least once during each Congress, with respect to operations under this title of this Act, and to the financing of State and local governments and report findings to each House, respectively, together with recommendations for such House, respectively, together with recommendations for such legislation as they deem advisable.

(b) This section is enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE II—FEDERAL COLLECTION OF STATE INCOME TAXES

FEDERAL COLLECTION

SEC. 201. (a) Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7517. FEDERAL COLLECTION OF STATE INCOME TAXES

"(a) GENERAL.—Where the law of any State or possession of the United States imposes an income tax, upon the request of the proper officials of such State or possession authorized to make such request pursuant to State law, the Secretary or his delegate is authorized in his discretion to enter into an agreement with such State or possession, under which, to the extent provided therein, the Secretary or his delegate will administer and enforce such income tax in behalf of such State or possession.

"(b) COSTS.—As a part of any agreement entered into pursuant to subsection (a) the Secretary or his delegate shall require that such State or possession pay to the Treasury Department the cost of the work or services performed (including material supplied) in administration and enforcement of such tax."

(b) The table of sections for chapter 77 of such Code is amended by adding after the item relating to section 7516 the following new item:

"Sec. 7517. Federal collection of State income taxes."

(c) Subsection (c) of section 7809 of such code (relating to deposit of collections) is amended—

(1) by striking out "and" in paragraph (2);

(2) by renumbering paragraph (3) as paragraph (4); and

(3) by inserting a new paragraph (3) immediately following paragraph (2) as follows:

"(3) Work or services performed (including material supplied) pursuant to section 7517 (relating to Federal collection of State income taxes); and".

EXHIBIT 2

SECTION-BY-SECTION ANALYSIS OF THE INTERGOVERNMENTAL REVENUE ACT

Section 1 provides that this legislation may be cited as the "Intergovernmental Revenue Act of 1971".

DECLARATION OF POLICY

Section 2 sets out congressional findings that an imbalance exists between the revenue capacities of the Federal Government and the State and local governments primarily because the Federal Government has better utilized the individual income tax than have the States; that inadequate revenues have made it difficult for the States and local governments to pay for essential services; and that the financial crisis of State and local governments could be eased significantly by general financial assistance (revenue sharing) from the Federal Government and by better utilization of the income tax.

Section 2 further declares the national policy to provide general financial assistance payments to the States and localities; to provide State and local governments a share of Federal revenues; and to encourage the States and localities to make greater use of the income tax.

TITLE I—GENERAL SUPPORT PAYMENTS TO STATES AND THEIR POLITICAL SUBDIVISIONS

Section 101 defines several terms used in this title of the act.

GENERAL SUPPORT FUND

Section 102 establishes an automatic five-year appropriation for general support grants (revenue sharing). The section directs the Secretary of the Treasury to determine the annual appropriation as an amount equal to (i) 1.3 percent of Federal individual taxable income and (ii) 10 percent of State personal income tax collections. Automatic appropriations to under the foregoing formula would expire after five years, thus permitting Congress to reassess the effectiveness of revenue sharing and the funding formula after a significant period of operation.

In fiscal 1972 the appropriations under Title I of the Act would approximate $6 billion determined as follows:

[In billions of dollars]

(A) 1.3% of Federal individual taxable income	5.0
(B) 10% of State personal income tax collections	1.0
Sum of (A) and (B)	6.0

This section further provides a ½ of 1% set aside, for the first three years following enactment, to be used by the Secretary of the Treasury to fulfill his administrative and data gathering responsibilities under this title.

BASIC PAYMENTS

Section 103 requires the Secretary of the Treasury to make quarterly payments from amounts appropriated to the States and to adjust subsequent payments to reflect any previous over or under payments.

STATE AREA ENTITLEMENT

Section 104 directs the Secretary of the Treasury to determine by formula, the amount of the entitlement for each State. The formula specified in this section allocates to each State an amount that depends on the population and relative tax effort in each State. In addition the formula provides a 10% bonus measured against State income tax collections.

The Secretary would obtain for each State its:

(A) resident population;

(B) tax effort, *i.e.*, the result of dividing the annual total of State and local taxes plus profits of State-owned liquor stores by the total personal income of individuals in the State; and

(C) State personal income tax collections.

The allocation for each State is determined as follows:

(A) After multiplying factors A and B for each State, the products are added to determine the sum for the 50 States and the District of Columbia. This total becomes the denominator for calculating a ratio between each State's population-tax effort product and the total population-tax effort product for all States. The amount of the appropriation equal to 1.3% of Federal individual taxable income, multiplied by this ratio for any State, would yield that State's entitlement under subsection 104(b) (1) in the first year under the bill.

(B) Those States having State income taxes would also receive an additional amount equal to 10% of the State personal income tax collection.

Exhibit A shows estimated State entitlements for $6 billion in shared revenues under the foregoing formula.

QUALIFYING AGREEMENTS WITH THE SECRETARY

Section 105 (a) requires the Governor of a State to enter an agreement with the Secretary in order to qualify to receive revenue sharing payments. States would pledge to adhere to these conditions:

(1) Use of shared revenues only for governmental purposes.

(2) Financial control and accountability over payments to the State and local governments of the same type the State and local governments give to State funds.

(3) Maintenance of the unrestricted character of the funds distributed to cities, counties and townships, except that a State could prohibit cities, counties and townships from spending the money for a purpose that conflicts in whole or in part with a State's plan dealing with the utilization and development of its human or physical resources.

(4) Confirmation by report to the Secretary that in each of the first three years after the effective date of the Act that the State did not reduce its grants out of its own funds to eligible cities, counties and townships because of the Federal aid assured to these governments under this Act. It is thus the intent of the Act that the States not reduce their grants out of their own funds to eligible cities, counties and townships.

(5) Adherence to all Federal laws in connection with any activity or program supported by funds provided in this Act so that these funds do not perpetuate practices that conflict with national policy.

(6) Submission of reports as necessary to the Secretary, the Congress and the Comptroller General to help them carry out their responsibilities under the Act.

Subsections 105 (b) and (c) prescribe two methods of determining allocations of shared revenues between a State and its political subdivisions and among political subdivisions.

Under subsection (c) the State and its political subdivisions may agree to any method of distribution which is fair and

equitable, so long as general purpose local governments having populations of 25,000 or more (a) are guaranteed an amount equal to their statutory entitlement under the Act, or (b) agree by majority vote to the plan of distribution. Those governments making up the majority must also represent at least 50% of the statutory dollar entitlement of local governments having populations of 25,000 or more within the State.

Subsection 106(b) sets out the statutory formula for distribution of shared revenues within a State, applicable when the State and its political subdivisions do not agree to an alternative plan of distribution. Under the statutory formula, the State must distribute—

(1) To cities, counties and townships having a population of 25,000 or more, a portion of the State entitlement in accordance with a formula based on the tax receipts, size and percentage of poverty level families of each such city, county and township; and

(2) To other political units within the State, an amount established by State law, which shall be fair and equitable and which may favor units of government with relatively large populations or poverty level families, or relatively high tax burdens. In any event the State may not withhold from distribution to its political subdivisions an amount in excess of 60 percent of the State entitlement or the proportion which taxes raised by the State bears to all taxes collected by the State and its political subdivisions, whichever is lower. This provision will provide the necessary flexibility for the States to make distributions to smaller communities in light of particular circumstances within the State, while at the same time assuring smaller units of government that the State will not retain a disproportionate amount of the State entitlement. In addition, under subsection 106(b)(4), the amount which any single local government may receive under the statutory formula is limited to 60% of the State entitlement.

Computation of the statutory pass-through to cities, counties and townships having populations of 25,000 or more is in two stages. The distribution formula provides for the allocation of shared revenue among large jurisdictions on the basis of three factors: revenues raised from taxation, population, and need as measured by relative numbers of poverty level families.

(A) Under the first part of the formula, the basic entitlement of a city, county or township with a population between 25,000 and 99,999 is determined in accordance with the "revenue ratio" and "population ratio" of the local jurisdiction.

The revenue ratio of a particular jurisdiction is defined as the ratio of the taxes it collects to all taxes collected by the State and/or political subdivisions within it. For jurisdictions between 25,000 and 99,999, the revenue ratio is automatically doubled. The population ratio for jurisdiction between 25,000 and 99,999 is either .5 or the percentage by which the jurisdiction's population exceeds 50,000, whichever is greater.

The basic entitlement of local jurisdictions with populations between 25,000 and 99,999 is determined by multiplying the doubled revenue ratio and the population ratio of the jurisdiction by the total amount of shared revenue received by the State. The definition of population ratio makes it impossible, under the first stage of the computation, for any local government to receive less than the amount allocable to it on the basis of its revenue ratio. However, local governments with populations above 75,000 and below 99,999 will receive additional shares equal to the percentage by which their populations exceed 50,000.

In the case of local governments with populations over 100,000, the basic entitlement, under the first part of the formula, is determined in accordance with only the revenue ratio, which is defined in the same way as for communities between 25,000 and 99,999. For jurisdictions with more than 100,000 population, too, the revenue ratio is automatically doubled. Thus, those jurisdictions are assured, under the first stage of the computation, of an amount of shared revenues equal to twice the proportion of the taxes they raise to all taxes raised within the State. To determine the dollar amount that jurisdictions with more than 100,000 population will receive, their doubled revenue ratio is multiplied by the total amount of shared revenue received by the State.

(B) Under the second stage of the computation, the entitlement of the local government as determined in (A) above is adjusted to take into account its share of the State's poverty level families. This is accomplished by determining the relationship of the percentage of poverty level families in the local jurisdiction to the percentage of poverty level families in the State. Determination of the "percentage of poverty level families" as defined in the Act, takes account of both families whose annual incomes are under $3,000 and families who regularly receive public assistance.

The poverty ratio of a community may be less than 1 or as high as 1.25, thus making it possible for a poor community to receive as much as 25% more shared revenues than it would receive if its allocation were based solely on its tax collections and its size.

POWERS OF THE SECRETARY

Section 106 directs the Secretary to make recommendations to the President and the Congress, within two years after passage of the Act, as to how to improve the allocation of general funds under the Act. This section further directs the Secretary to obtain the requisite statistical data, reports and other materials he needs to discharge his responsibilities under this title and gives him authority to reimburse Federal agencies for the cost of providing any data necessary to the administration of this Act from the funds allocated for the Secretary by a percentage set aside in the first three years following the enactment of the Act. It further authorizes appropriations after the first three years to support the continuing information requirements of the Secretary under the Act.

This section also empowers the Secretary, after giving notice and conducting a hearing, to stop payments to a State or local government that fails to comply with the agreements required under section 105 of the Act until such time as corrective action is taken.

JUDICIAL REVIEW

Section 107 permits a State to file a petition for review of the Secretary's action in the appropriate United States Court of Appeals. The scope of the judicial review authority is spelled out and includes final appeal to the Supreme Court.

PROHIBITION AGAINST DISCRIMINATION

This section makes Title VI of the Civil Rights Act applicable to activities financed in whole or in part from general support funds. This section further expressly guarantees the right of individuals to sue in the Federal district courts in case of violations of Title VI, and provides, in appropriate cases, for the payment of reasonable attorney's fees to the prevailing party.

REPORT BY THE SECRETARY

Section 109 requires the Secretary to report to the Congress on the operation of the trust fund for the preceding and current fiscal years. He must file a statement of the actual and estimated appropriations and disbursements from the trust fund and may recommend changes in its operation.

CONGRESSIONAL STUDY

Section 110 charges the respective Appropriations and Legislative committees of both the House and the Senate to conduct a full and complete study with respect to the operation of the trust fund at least once during each session of Congress. This section explicitly provides that the Congress retains the same rule-making authority with respect to these rules as it does with other rules.

TITLE II—FEDERAL COLLECTION OF STATE INCOME TAXES

Section 201 adds a new section to Chapter 77 of the Internal Revenue Code to allow the proper officials of any State and the Secretary of the Treasury to enter into an agreement for Federal administration and enforcement of that State's income tax. It requires that the State pay to the Treasury Department the cost of any work or services performed as a result of the agreement.

If the States, on their part, evidence a willingness to enter into the agreements authorized under this section, the day may come when taxpayers of a State can discharge both Federal and State tax liabilities with a single set of tax officials. States have tended increasingly to conform their income tax laws to the Federal Internal Revenue Code. The prospects of working out a mutually accepted agreement have thereby been enhanced. Currently several States are considering the enactment of a personal income tax for the first time. If the Secretary of the Treasury had this authority, one or more of these States might immediately take steps to enter into an agreement in order to avoid the cost of establishing its own income tax administrative machinery.

EXHIBIT 8

Estimates of State entitlements under Intergovernmental Revenue Act of 1971

State:	Muskie bill entitlement
Alabama	87.21
Alaska	9.10
Arizona	57.275
Arkansas	47.845
California	657.40
Colorado	70.645
Connecticut	64.625
Delaware	18.45
District of Columbia	23.07
Florida	163.37
Georgia	118.94
Hawaii	32.47
Idaho	25.09
Illinois	317.49
Indiana	133.60
Iowa	87.085
Kansas	63.935
Kentucky	80.11
Louisiana	101.80
Maine	28.76
Maryland	123.925
Massachusetts	192.585
Michigan	254.61
Minnesota	140.29
Mississippi	61.99
Missouri	111.506
Montana	23.33
Nebraska	35.285
Nevada	12.32
New Hampshire	20.405
New Jersey	155.865
New Mexico	28.505
New York	765.43
North Carolina	150.905
North Dakota	17.82
Ohio	222.14
Oklahoma	65.19
Oregon	78.90
Pennsylvania	373.385
Rhode Island	23.83
South Carolina	65.43
South Dakota	19.695
Tennessee	86.87
Texas	230.930
Utah	36.16
Vermont	17.77
Virginia	137.085
Washington	96.875
West Virginia	47.87
Wisconsin	169.71
Wyoming	10.36