

# Report for Congress

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## **Federal Grants to State and Local Governments: A Brief History**

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# Federal Grants to State and Local Governments: A Brief History

## Summary

The historical origins of the federal grants-in-aid system predate the Constitution. In fact, Congress provided for grants of land under the Articles of Confederation as early as 1785. There was, however, little development in the system until the 20<sup>th</sup> century. Certain conditions existed during the late 18<sup>th</sup> and 19<sup>th</sup> centuries that limited federal aid to states and localities. During the pre-Civil War era, proponents of states' rights and minimalist national government prevailed, where states existing. During this period, the trans-Mississippi west consisted largely of federally-administered territories; indeed, more than half of the trans-Mississippi west entered the Union after the Civil War. The post-Civil War era was one of corporate dominance and weak government. Despite these conditions, the federal government did provide aid to states and localities on an ad hoc basis to address natural disasters, civil disturbances, westward expansion, and the need for internal improvements.

The grants-in-aid system began to take its current form in the early 20<sup>th</sup> century. Financial grants created during the 1910s included grant mechanisms such as matching requirements and conditions, which are now common in grant programs. In the 1930s, President Franklin Roosevelt's Administration, prompted by the conditions of the Great Depression, worked with Congress to accelerate the development of the grants-in-aid system as part of the New Deal program of social relief, financial reform, and economic recovery. The grants-in-aid system again grew significantly during President Lyndon Johnson's Great Society initiative of the 1960s. Many of these programs were specifically focused on urban areas and disadvantaged populations.

The Nixon Administration and Congress initiated changes in the system, emphasizing block grants, as well as establishing general revenue sharing, a program that distributed funds to state and local governments without programmatic requirements. The Reagan Administration also worked with Congress on substantial change, consolidating dozens of categorical grants into broader block grants and slowing the growth of the grants-in-aid system. Since the Reagan initiatives, there have been few significant changes in the grants-in-aid system.

This report will be updated as circumstances warrant.

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# Federal Grants to State and Local Governments: A Brief History

## Early Beginnings and Slow Development

The origins of the grants-in-aid system predate the Constitution. Early grants were authorized on an *ad hoc* basis, awarded not only to states and localities, but in some cases to private corporations, just as they are today. Early grants also frequently came in the form of land, as well as money. For example, the Land Ordinance of 1785, enacted by Congress under the Articles of Confederation, required every new township incorporated from federal lands to reserve one lot for public schools.<sup>1</sup> The need to help victims of civil disturbance and disasters prompted the federal government to provide assistance to communities. For example, following the Whiskey Rebellion in late 1794, the federal government compensated individuals who could prove they suffered losses.<sup>2</sup> When the town of Alexandria, Virginia burned in 1827, Congress quickly appropriated \$20,000 in assistance.<sup>3</sup>

In 1790, the newly established government under the Constitution set a precedent for federal aid by assuming state Revolutionary War debts. Treasury Secretary Alexander Hamilton proposed the idea, suggesting that it would establish a sound credit rating for future government borrowing.<sup>4</sup> The “anti-federalists,” mostly from southern states, hotly contested the idea, arguing that it made the new federal government too centralized, superceded states’ rights, and rewarded speculators.<sup>5</sup> Ultimately, the federal government assumed the debt, but only after placating the southern states by, among other things, locating the capital city along the Potomac River in the South.<sup>6</sup>

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<sup>1</sup> *Journals of the Continental Congress*, 2<sup>nd</sup> Continental Congress, p. 378. [<http://lcweb2.loc.gov/ammem/amlaw/lwjc.html>], visited Sept. 18, 2000.

<sup>2</sup> *Annals of Congress*, 3<sup>rd</sup> Congress, 2<sup>nd</sup> Session, pp. 1000-1002. [<http://lcweb2.loc.gov/ammem/amlaw/lwac.html>], visited Sept. 18, 2000.

<sup>3</sup> 6 Stat. 356 (1827), “Act for The Relief of Indigent Sufferers by The Fire at Alexandria.”

<sup>4</sup> Although not a public argument, Hamilton also believed that federal assumption of state debts would focus more attention on the national government.

<sup>5</sup> Many state debt instruments had been purchased at steep discounts by speculators. Hamilton’s bill assumed the instruments at full value.

<sup>6</sup> Votes on the issue of the permanent seat of government are found in *Annals of Congress*, First Congress, Second Session, pp. 1039-1040, 1735-38. Votes on the issue of assumption of debts are found at First Congress, Second Session, pp. 1054-55, 1753. [<http://lcweb2.loc.gov/ammem/amlaw/lwac.html>], visited Sept. 18, 2000.

As westward settlement accelerated, following the War of 1812, the federal government gave greater attention to internal improvements, the need for which had been heavily promoted by Thomas Jefferson. John C. Calhoun, then Secretary of War (the War Department played a leading federal role in frontier development), presented a plan for national internal improvements in 1819 in which he set forth criteria by which the national government should evaluate improvement projects. He stated that federal assistance should be granted for programs “immediately beneficial to more than half of the states of the Union, and which without the aid of the Federal Government, would require their cooperation.”<sup>7</sup> Calhoun’s plan also called for using the surveying and planning resources of the Army Corps of Engineers.<sup>8</sup>

One reason Congress was partial to awarding land grants instead of funds was that land was plentiful in the antebellum period, whereas money was not. Most early land grants were for transportation projects. For example, Congress granted land and surveying services for the intracoastal waterway, which was intended to provide a means of transporting goods without having to travel along the hazardous ocean areas off the eastern seaboard. The waterway’s original plans called for using canals to link all major rivers east of the Mississippi, providing year-round travel in the American East.<sup>9</sup>

In addition to canals and waterways, land grants were also made for roads and railroads. In some instances, the federal government awarded land to private corporations building railroads. In other instances, “right-of-way” grants were used, in which the federal government retained ownership, but permitted other entities to undertake internal improvements. For example, the National, or Cumberland Road, was surveyed and constructed at federal, and later, state expense from Cumberland, Maryland to Vandalia, Illinois between 1811 and 1850.<sup>10</sup>

The American migration westward during the 19<sup>th</sup> century provided many examples of early grants-in-aid, although grants generally applied to individuals, corporations, and territories, since most of the states of the trans-Mississippi west did not enter the Union until after the Civil War. The movement west greatly depended on aid from federal troops who provided law enforcement protection and constructed a network of over 70 wilderness forts. The forts provided medical services, blacksmith shops for repairing wagons, and fostered (sometimes created) local economies through supply purchases. Federal assistance also came through its exploration, survey, road-building efforts, and the financing of postal service in the West, which provided a communication link to the East.<sup>11</sup>

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<sup>7</sup> John C. Calhoun, “Report on Roads and Canals, Communicated to the House of Representatives, Jan. 14, 1819,” *The Works of John C. Calhoun* (New York: D. Appleton and Co., 1888).

<sup>8</sup> 2 Stat. 137, March 16, 1802.

<sup>9</sup> Daniel J. Elazar, *The American Partnership: Intergovernmental Co-operation in the Nineteenth-Century United States* (Chicago: U. of Chicago Press, 1962), p. 36.

<sup>10</sup> 2 Stat. 357, March 29, 1806.

<sup>11</sup> John D. Unruh, *The Plains Across: The Overland Emigrants and the Trans-Mississippi* (continued...)

In the area of social services, the national government played almost no role. This was largely due to support for states' rights and dominant strict constructionist views of most national politicians. For example, President Franklin Pierce (1853-1857) vetoed an 1854 act, supported by reformer Dorothea Dix, to allocate funds to states to help the indigent insane. Pierce contended that if:

Congress is to make provision for [paupers], the fountains of charity will be dried up at home, and the several States, instead of bestowing their own means on the social wants of their people ... [will] become humble suppliants for the bounty of the Federal Government, reversing their true relation to this Union.<sup>12</sup>

In rare instances, the national government assisted states and localities with social service projects that were beyond the resources of single localities. For example, in 1817, Congress awarded a land grant to the Hartford Deaf and Dumb Asylum in Connecticut, which was intended to educate deaf persons. The Asylum, founded by advocate Thomas Hopkins Gallaudet, was a joint effort by six New England states, as well as several churches. It was eventually renamed the American School for the Deaf and it remains the nation's oldest school for the hearing impaired.<sup>13</sup>

## Grants-in-Aid During the Late-19th Century

The outcome of the Civil War had a significant impact on the future of the grants-in-aid system. After the War, states' rights advocates lost considerable ground to the view that the Constitution and federal law empowered the federal government to take a wide range of measures deemed "necessary and proper" to attain the goals of the Constitution's preamble and which set the stage for the development of the grants-in-aid system many years later.<sup>14</sup>

During and immediately following the war, Congress passed several acts that expanded federal involvement in the states. Congress supported westward expansion with the Pacific Railroad Act of 1862, which enabled the government to charter railroad corporations that constructed a transcontinental railroad.<sup>15</sup> The Morrill Act of 1862, provided land grants for the establishment of land-grant universities focusing on agriculture, mechanics, and military science. Congress had been assisting higher education for decades through ad hoc legislation; the Morrill Act

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<sup>11</sup> (...continued)

*West, 1840-60* (Urbana, IL: U. of Illinois Press, 1979), pp. 201-243.

<sup>12</sup> U.S. President (Pierce), *Congressional Globe*, 33<sup>rd</sup> Cong., 1<sup>st</sup> sess., May 3, 1854, p. 1062.

<sup>13</sup> Elazar, *The American Partnership*, p. 116.

<sup>14</sup> Alfred H. Kelly, Winfred A. Harbison, and Herman Belz. *The American Constitution: Its Origin and Development*. 6<sup>th</sup> ed. (New York: W.W. Norton, 1983), pp. 326-327.

<sup>15</sup> 12 Stat. 489, July 1, 1862.

systemized this assistance. Some observers of federalism consider it the prototype for later grants-in-aid because of its uniform application and success.<sup>16</sup>

In the latter half of the 19<sup>th</sup> century, Congress also authorized the first financial grant for states and localities that targeted a specific segment of the population based on need. In 1879, Congress authorized funds for the distribution of education materials for blind students in “An act to promote the education of the blind.”<sup>17</sup> This Act purchased and distributed reading materials to “public institutions for the education of the blind” using a formula based on the institution’s number of blind students. The practice of targeting grants, however, would not become common till the early 20<sup>th</sup> century.

Notwithstanding these examples, governmental activity at both the state and national level decreased during the years following the Civil War. The 14<sup>th</sup> Amendment was adopted in 1868 for the purpose of protecting the rights of freed slaves, but the courts generally interpreted its “due process” clause to be a barrier against state action in social and economic problems. This reduced the states’ abilities to respond to new and burgeoning problems generated by the rapid industrialization of the late 19<sup>th</sup> century. Government inactivity of this period contributed to the development of philosophies of government intervention and preemption that would later be applied early in the 20<sup>th</sup> century.<sup>18</sup>

## Early 20<sup>th</sup> Century

The Presidents in office during the last three decades of the 19<sup>th</sup> century were generally cautious about exercising executive authority. President Theodore Roosevelt (1901-1909), however, used the powers of the Presidency to a greater extent than any of his immediate predecessors. He believed that a strong executive branch was necessary to address the problems of the industrial revolution and overcome the “overdivision of governmental powers” to address state and local concerns. As he later argued,

The state must be made efficient for the work which concerns only the people of the state; and the nation for that which concerns all the people. There must remain no neutral ground to serve as a refuge for lawbreakers, and especially for lawbreakers of great wealth, who can hire the vulpine legal cunning which will teach them how to avoid both jurisdictions ... The New Nationalism puts the national need before sectional or personal advantage. It is impatient of the utter confusion that results from local legislatures attempting to treat national issues as local issues ... This New Nationalism regards the executive power as the steward of the public welfare.<sup>19</sup>

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<sup>16</sup> 12 Stat. 503, July 2, 1862. Also see Elazar, *The American Partnership*, p. 219.

<sup>17</sup> 20 Stat. 467, March 3, 1879.

<sup>18</sup> U.S. Advisory Commission on Intergovernmental Relations. *The Condition of Contemporary Federalism: Conflicting Theories and Collapsing Constraints*, Report A-78 (Washington: GPO, 1981), p. 60.

<sup>19</sup> U.S. President (Theodore Roosevelt), speech made at Osawatomie, Kansas, Aug. 31, (continued...)

President Theodore Roosevelt's extensive use of power may have inspired changes in the federal system after he left office. For example, some analysts point to the Weeks Act of 1911 as the first example of a modern grant-in-aid. In the Act, Congress authorized the Secretary of Agriculture to "cooperate with any state or group of states, when requested to do so, in the protection from fire of the forested watersheds of the navigable streams."<sup>20</sup> Despite its appropriation of only \$200,000, observers consider it a landmark in the development of the grants-in-aid system because it contained several mechanisms that became common in future grants, including conditioning the receipt of federal funds on approval of state plans, requiring matching state funds, and specifying the oversight role of federal officials.<sup>21</sup> Congress established a pattern of financial grants to states in 1914, by passing the Smith-Lever Act, which distributed millions of dollars in agricultural assistance to states.<sup>22</sup> Within 10 years of passage of the Weeks Act, the federal government was awarding grants for highway construction (in response to the automobile), vocational education, public health, and maternity care.<sup>23</sup>

President Woodrow Wilson (1913-1921) continued Roosevelt's active use of executive power to address social ills. To strengthen the federal system, Wilson advocated the professionalization of public service and cooperation among federal, state, and local governments. He countered the arguments of those who believed in a limited role for national government by arguing that each generation had the right to interpret the Constitution differently. In his 1908 book, *Constitutional Government in the United States*, Wilson wrote:

The question of the relation of the states to the federal government is the cardinal question of our constitutional system ... It cannot, indeed, be settled by the opinion of any one generation because it is a question of growth, and every successive stage of our political and economic development gives it a new aspect.<sup>24</sup>

During the Wilson Administration, Congress began to institutionalize the practice of targeting grants to certain geographic areas or population segments. In particular, two acts began this trend. The Federal Aid Highway Act of 1916 provided federal grants to states for the express purpose of constructing roads in rural areas.<sup>25</sup> Also, the Smith-Hughes Act of 1917 authorized grant programs for vocational

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<sup>19</sup> (...continued)  
1910, as quoted in *Ibid.*, p. 64.

<sup>20</sup> P.L. 61-435; 37 Stat. 961.

<sup>21</sup> Morton Grodzins, *The American System* (Chicago: Rand McNally and Co., 1966), p. 36.

<sup>22</sup> P.L. 63-94; 37 Stat. 372.

<sup>23</sup> U.S. ACIR, *The Condition of Contemporary Federalism*, p. 68.

<sup>24</sup> Woodrow Wilson, *Constitutional Government in the United States* (New York, 1908), p. 173.

<sup>25</sup> P.L. 64-156; 39 Stat. 355.



education, including agricultural skills, industrial skills, and home economics.<sup>26</sup> The Act divided the program into three separate grants, which were distributed to states based on selected variables. Grants for agricultural skills were distributed based on a state's rural population; grants for industrial skills and home economics were distributed based on a state's urban population; and a final grant program with several eligible activities was distributed based on a state's overall population.<sup>27</sup>

Following the Roosevelt and Wilson Administrations, federal activity in the states remained at a relatively low ebb until the 1930s.<sup>28</sup>

## The New Deal

President Franklin Roosevelt's Administration, prompted by the conditions of the Great Depression, accelerated the development of the grants-in-aid system as part of his New Deal program of social relief, financial reform, and economic recovery. Drawing on a broad constructionist interpretation of the Constitution that gave him flexibility in designing economic recovery programs, Roosevelt and Congress expanded federal involvement in areas where it previously had taken little action, including public housing and employment security.<sup>29</sup> Examples of New Deal programs still in existence are the Tennessee Valley Authority, which provides electric power and formerly administered infrastructure projects; and Social Security, which provides income security to American workers.

The Federal Emergency Relief Act of 1933 (FERA) had a long-lasting impact on the grants-in-aid system.<sup>30</sup> It was the first grant to the states for the express purpose of providing public relief. The Act provided \$3 billion in federal aid over three years, which the states could provide in the form of direct relief or "work" relief, which was the President's preference. States were required to match half of the FERA funds with state funds, and could distribute the rest on a discretionary basis where it felt it was most needed.<sup>31</sup> President Roosevelt's predilection for "work" relief led to the first use of federal employment for relief purposes. The

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<sup>26</sup> P.L. 64-347; 40 Stat. 929.

<sup>27</sup> *Ibid.*, 40 Stat. 929-931.

<sup>28</sup> Daniel J. Elazar, "The Evolving Federal System," in *The Power to Govern: Assessing Reform in the United States*, Richard Pious ed., *Proceedings of the Academy of Political Science*, vol. 34, 1981. p. 5.

<sup>29</sup> Kelly, *The American Constitution*, p. 482.

<sup>30</sup> P.L. 73-15; 48 Stat. 55.

<sup>31</sup> Legislation also granted the Federal Emergency Relief Administration authority to directly administer assistance in states it deemed incapable of efficiently distributing assistance. The Administration eventually federalized all relief programs in Oklahoma, Louisiana, Georgia, Massachusetts, North Dakota, and Ohio.

Emergency Relief Appropriation Act of 1935<sup>32</sup> authorized the Works Project Administration, which employed 3 million citizens at its peak in 1936.<sup>33</sup>

The New Deal expanded the use of categorical grant programs, which are currently the most common type of grant.<sup>34</sup> Some observers believe this increase in financial assistance to states and localities, as well direct financial assistance to individuals, concentrated more authority and responsibility at the federal level. Supreme Court decisions that upheld New Deal programs cemented this concentrating effect by permanently expanding the federal government's role in policy areas that had previously been within the states' domain or were not addressed by government at any level.<sup>35</sup> President Roosevelt summarized his approach to federal assistance in a speech before Congress: "If, as our Constitution tells us, our federal government was established among other things 'to promote the general welfare,' it is our plain duty to provide for the security upon which welfare depends."<sup>36</sup>

## The Great Society

The grants-in-aid system expanded gradually during the two decades following the Roosevelt Administration. During the administration of President Harry Truman (1945-1953), the federal government adopted grant programs in several areas, including agricultural research, health initiatives, and housing. The number of grant programs further expanded during the administration of President Dwight Eisenhower (1953-1961). By the time President Eisenhower left office, total grant outlays had nearly tripled, from \$2.4 billion to \$6.8 billion.<sup>37</sup> Arguably, the most significant grant program enacted during the Eisenhower Administration was the interstate highway program, which remains the primary funding source for interstate highway construction and maintenance.<sup>38</sup>

The grants-in-aid system was greatly expanded by President Lyndon Johnson's "Great Society" initiative. Relying implicitly on the Fourteenth Amendment and the commerce clause in the Constitution, Congress and the President enacted legislation that expanded the federal government's role in state and local affairs. More grant programs were enacted during the Johnson Administration (1963-1969) than in all preceding years in U.S. history combined. Total grant outlays nearly doubled

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<sup>32</sup> Pub. Res., No. 111, 49 Stat. 115.

<sup>33</sup> U.S. ACIR, *The Condition of Contemporary Federalism*, p. 78-79.

<sup>34</sup> The personal income tax, authorized by the 16<sup>th</sup> Amendment in 1913, helped make this expansion of programs possible by providing a continuing and substantial source of revenue for the federal government. See David B. Walker, *The Rebirth of Federalism: Slouching Toward Washington*, 2<sup>nd</sup> ed. (New York: Chatham House Publishers, 2000), p. 33.

<sup>35</sup> U.S. ACIR, *The Condition of Contemporary Federalism*, p. 78-79.

<sup>36</sup> U.S. President (Roosevelt), Message to Congress, June 8, 1934, as cited in *Ibid.*, p. 78.

<sup>37</sup> Walker, *The Rebirth of Federalism*, p. 103.

<sup>38</sup> P.L. 84-627; 70 Stat. 378.

between 1964 and 1968, rising from \$10.1 billion to \$18.6 billion.<sup>39</sup> All of the new programs were categorical grants, with the exception of two block grants in the fields of health and law enforcement.<sup>40</sup> Some new categorical grants also addressed environmental concerns, such as water and air pollution. A significant number of these programs, such as the Model Cities and Demonstration Cities program, concentrated federal assistance on urban and metropolitan areas, as well as minority and disadvantaged populations.<sup>41</sup> In legislation, Congress emphasized the need to assist urban areas:

The Congress hereby finds and declares that improving the quality of urban life is the most critical domestic problem facing the United States .... The Congress further finds and declares that cities, of all sizes, do not have adequate resources to deal effectively with the critical problems facing them, and that Federal assistance in addition to that now authorized by the urban renewal program and other existing Federal grant-in-aid programs is essential to enable cities to plan, develop, and conduct programs to improve their physical environment ....<sup>42</sup>

Although categorical grants to state and local governments were the dominant form of assistance enacted during the 1960s, Congress and the President also established other approaches to achieving national goals. In 1966, for example, Congress encouraged regional approaches to governmental challenges by requiring all recipient governments to coordinate federal programs with regional “clearinghouses,” which often took the form of regional planning councils.<sup>43</sup> This requirement led to the creation of OMB circular A-95, which was the primary instrument of intergovernmental coordination until 1983. Congress directed regional clearinghouses, which received federal planning grants, to prevent duplication of services and improve development planning. One observer of regional councils stated “the use of A-95 procedures represents the single, most potentially powerful device to affect the distribution of resources in a region according to some regional point of view.”<sup>44</sup> Observers of federalism have debated the review process’s

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<sup>39</sup> Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism, 1985-1986* (Washington: GPO, 1986), p. 19.

<sup>40</sup> In 1949, the Hoover Commission (one of two presidentially-appointed commissions chaired by former president Herbert Hoover and charged with proposing administrative reforms) made the first recommendation for block grants, stating that “a system of grants be established based upon broad categories—such as highways, education, public assistance, and public health—as contrasted with the present system of extensive fragmentation.” Despite this recommendation, Congress did not create a block grant until 1966—the Partnership for Public Health.

<sup>41</sup> Walker, *The Rebirth of Federalism.*, pp. 123-126.

<sup>42</sup> “Demonstration Cities and Metropolitan Development Act of 1966,” P.L. 89-754, sec. 101; 80 Stat. 1255.

<sup>43</sup> *Ibid.*, 80 Stat. 1261. Also see “Intergovernmental Cooperation Act of 1968,” P.L. 90-577; 96 Stat. 1103.

<sup>44</sup> Melvin Mogulof, “Metropolitan Councils of Government and the Federal Government,” *Urban Affairs Quarterly*, June 1972, p. 492.

effectiveness, with most observers arguing that A-95 moderately succeeded in improving intergovernmental coordination, but never achieved its full potential.<sup>45</sup>

President Johnson's "Great Society" programs extended federal involvement in state and local government, as these sub-national governments began implementing a vast array of federal programs. Some observers of federalism point to the "Great Society" as a permanent shift in the federal approach to assisting state and local governments. New grant programs were enacted throughout the Johnson Administration, despite changes in party control in Congress. The trend of creating new programs continued into the Nixon Administration, leading some observers of federalism to call the Great Society a permanent change in the federal approach to assisting state and local governments.<sup>46</sup>

## Changes in the System: Nixon and Reagan

The expansion of grants-in-aid under President Johnson led to a call for reform under his successor, President Richard Nixon (1969-1974). Nixon characterized the system as a "terrible tangle" of categorical grants plagued by overlapping programs, inefficiency, excessive administrative requirements, and imposition of federal priorities on state and local governments.<sup>47</sup> His primary goals were to improve program efficiency, decentralize decision making to states and localities, and restrain program growth.

President Nixon advocated a "New Federalism," implemented through general revenue sharing and special revenue sharing. General revenue sharing sent funds to states and local governments with virtually no programmatic requirements. The goal of general revenue sharing was to combine the advantages of national revenue collection with the advantages of local discretion over spending.<sup>48</sup> Representative Melvin Laird of Wisconsin was a pioneer in the field, introducing a revenue sharing bill as early as 1958. Walter Heller, Chairman of the Council of Economic Advisers in the Kennedy and Johnson administrations, proposed general revenue sharing in 1960 as a potential use of federal surpluses, but his plan received little attention until the Nixon Administration.<sup>49</sup> The program distributed funds to states from 1972-81 and to local governments from 1972-86, but was not re-authorized in 1986 as part of

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<sup>45</sup> Irene Fraser Rothenberg, "Regional Coordination of Federal Programs: Has the Difficult Grown Impossible?" *Journal of Policy Analysis and Management*, vol. 4, 1984, pp. 3-4. For more information, see CRS Report RL31366, *The Role of Regional Councils in the Federal System: Policy Issues and Options*, by Ben Canada.

<sup>46</sup> U.S. ACIR, *The Condition of Contemporary Federalism*, p. 122-123.

<sup>47</sup> William Lilley III, Timothy B. Clark, and John K. Iglehart, "New Federalism Report/Nixon Attack on Grant Programs Aims to Simplify Structure, Give Greater Local Control," *National Journal*, vol. 5, Jan. 20, 1973. p. 76.

<sup>48</sup> Timothy Conlan, *From New Federalism to Devolution: Twenty-five Years of Intergovernmental Reform* (Washington: Brookings Institution Press, 1998), pp. 19-21, 65.

<sup>49</sup> Michael Reagan, *The New Federalism* (New York: Oxford U. Press, 1972), pp. 89-90.

efforts to control mounting deficits.<sup>50</sup> Nixon also proposed special revenue sharing, which merged the funding of functionally related categorical programs into large allocations distributed to states. These programs were intended to give the states broad discretion in addressing the functional area.<sup>51</sup> Special revenue sharing was similar to block grants, but required no application and had fewer programmatic strings. Congress, however, favored block grants over special revenue sharing and modified most of Nixon's special revenue sharing proposals to block grant programs.<sup>52</sup> One such Nixon proposal was adopted as the Community Development Block Grant program (CDBG), which remains one of the federal government's primary development programs.

Although President Nixon intended to devolve a greater degree of decision making to states and localities, the changes that occurred during his administration have been credited with ultimately expanding federal intervention in state and local government activities.<sup>53</sup> The new block grants and revenue sharing gave the federal government more influence over state and local policymaking because the federal government placed conditions on the use of funds. Funds could be reduced or withheld if the recipient government failed to meet certain specified conditions. Some observers believe that since block grants and general revenue sharing brought federal aid into many communities for the first time, "New Federalism" enabled the federal government to have more influence over American society than ever before.<sup>54</sup>

The Administration of President Ronald Reagan (1981-1989) also pushed for grant reform. These efforts differed from those of the Nixon Administration in that they sought not only to decentralize grant administration to state and local governments, but also to reduce funding, alter priorities in the grants-in-aid system, and reduce federal government regulatory power that had developed through expansion of the grant system. President Reagan supported the block grant as a means of both disengaging the national government from policy areas he viewed as state and local concerns and of reducing spending.<sup>55</sup> Reagan was initially successful in his efforts. The Omnibus Budget Reconciliation Act (OBRA) of 1981 consolidated 77 categorical programs into nine block grants. OBRA reduced total grant outlays to state and local governments by \$6 billion below the previous fiscal year (see Figures 1 and 2). Most of the budget cuts came in the areas of education, job training, and welfare. There was, however, little change after the first two years of his administration. The growth rate of the grants-in-aid system slowed during the Reagan years, but did not halt.<sup>56</sup>

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<sup>50</sup> Advisory Commission on Intergovernmental Relations, *Characteristics of Federal Grant-in-aid Programs* (Washington: GPO, 1994), p. iii.

<sup>51</sup> Reagan, *The New Federalism*, p. 60.

<sup>52</sup> *Congressional Record*, vo. 119, 93<sup>rd</sup> Cong., 1<sup>st</sup> sess., pp. 39377-39381.

<sup>53</sup> Conlan, *From New Federalism to Devolution*, pp. 85-86.

<sup>54</sup> Conlan, *From New Federalism to Devolution*, pp. 85-87.

<sup>55</sup> *Ibid.*, pp. 142-144.

<sup>56</sup> *Ibid.*, p. 114.

To further strengthen the role of states in the federal system, the Reagan Administration enacted regulatory changes. In 1982, Executive Order 12372 replaced OMB circular A-95, which required states to establish regional clearinghouses to catalog and coordinate federal grants in that area.<sup>57</sup> The order, which is still in effect, permits, but does not require, the states to establish a procedure for reviewing federal grant programs within their jurisdiction. E.O. 12372 severely weakened the influence of regional councils over the administration of federal grants by removing the requirement for states to use the regional clearinghouses.<sup>58</sup>

## Mid-1980s to the Present

The Supreme Court upheld the practice of conditioning grants in its 1987 ruling on *South Dakota v. Dole*. South Dakota challenged the ability of the federal government to withhold federal highway funds from states with drinking ages below 21 years of age. The court ruled that Congress could use its spending power to encourage uniformity in the states' drinking ages. Further, it ruled that "Congress may attach conditions for the receipt of federal funds. However, exercise of the power is subject to certain restrictions, including that it must be in pursuit of 'the general welfare.'"<sup>59</sup>

Other recent Supreme Court decisions have, however, limited Congress's influence over state policy. An example is the 1992 ruling in *New York v. United States*. New York State disputed federal legislation pertaining to the disposal of low-level radioactive waste, arguing that the legislation went beyond providing monetary incentives for disposing of low-level radioactive waste, but compelled states either to follow congressional instructions or accept ownership of the waste. The court ruled that Congress overstepped its authority to condition federal grants, which is granted in the commerce and spending clauses of the Constitution. In its ruling, the court stated, "In this provision, Congress has crossed the line distinguishing encouragement from coercion."<sup>60</sup>

The grants-in-aid system experienced little change under the Bush and Clinton administrations. President George H.W. Bush (1989-1993) attempted to consolidate several categorical programs into larger, lower-funded block programs; but Congress did not act on his proposals.<sup>61</sup> President Bill Clinton (1993-2001) focused on improving governmental management and performance with the National Performance Review (NPR). The NPR implied greater state and local flexibility over

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<sup>57</sup> U.S. President (Reagan), "Intergovernmental Review of Federal Programs," Executive Order 12372, *Federal Register*, vol. 47, July 14, 1982, p. 30959.

<sup>58</sup> Irene Fraser Rothenberg, "Regional Coordination of Federal Programs: Has the Difficult Grown Impossible?" *Journal of Policy Analysis and Management*, vol. 4, 1984, pp. 3-4.

<sup>59</sup> U.S. Supreme Court, *South Dakota v. Dole*, 483 U.S. 203, (1987).

<sup>60</sup> U.S. Supreme Court, *New York v. United States*, 505 U.S. 144, (1992).

<sup>61</sup> Walker, *The Rebirth of Federalism*. pp. 162-165.

grant programs, but with the understanding that the federal government would closely monitor the performance of the programs.<sup>62</sup>

The 104<sup>th</sup> Congress (1995-96) proposed many reforms that would have consolidated categorical programs into block grant programs, but most of these reforms were never passed. Seventy-three small grant programs were eliminated, but these comprised only \$2.3 billion in funding cuts. Arguably one of the most significant reforms passed by the 104<sup>th</sup> Congress was the conversion of the open-ended entitlement grant, Aid to Families with Dependent Children (AFDC), to a capped block grant called Temporary Assistance to Needy Families (TANF).<sup>63</sup>

In the first two years of his administration, President George W. Bush (2001-) made some proposals that would affect the grants-in-aid system. The Bush Administration proposed making “faith-based organizations” eligible for more grant programs. The House of Representatives passed a “charitable choice” bill, but the Senate did not enact related legislation.<sup>64</sup>

Since the terrorist attacks of September 2001, the Bush Administration has proposed a number of changes in grant programs for state and local emergency preparedness. The proposals have included transfers of agency responsibilities, new grant programs, and significant funding increases for some existing emergency preparedness programs.

Shortly after taking office in January 2001, President Bush established an Interagency Working Group on Federalism, which reportedly considered a new executive order to address accountability in federal programs and, possibly, regional approaches to governmental challenges.<sup>65</sup> Following the terrorist attacks in September 2001, however, the working group’s efforts were indefinitely postponed.

## **Related CRS Products**

CRS Report RL30772, *American Federalism 1776-2000: Significant Events*, by Eugene Boyd and Michael K. Fauntroy.

CRS Report RL30818, *Block Grants: An Overview*, by Eugene Boyd and Ben Canada.

CRS Report 98-79C, *Federal Funds: Tracking Their Geographic Distribution*, by James R. Riehl.

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<sup>62</sup> Conlan, *From New Federalism to Devolution*, pp. 221-224.

<sup>63</sup> P.L.104-193, 110 Stat. 2105.

<sup>64</sup> For more information on this issue, see CRS Report RL31099, *Faith-Based Organizations and Their Relationship with State and Local Governments: An Analysis of Recent Initiatives*, by Ben Canada.

<sup>65</sup> U.S. President (George W. Bush), “Interagency Working Group on Federalism,” Memorandum for the Heads of Executive Departments and Agencies,” Feb. 26, 2001.

CRS Report RS20669, *Federal Grants to State and Local Governments: An Overview and Characteristics*, by Ben Canada.

CRS Report RL30778, *Federal Grants to State and Local Governments: Concepts for Legislative Design and Oversight*, by Ben Canada.

CRS Report RS20872, *Waivers and the Grants-in-Aid System*, by Ben Canada.

CRS Web Site for Federal Grants:

[[www.crs.gov/reference/general/grantsinfo.shtml](http://www.crs.gov/reference/general/grantsinfo.shtml)]

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