



The Phyllis Schlafly Report



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1977 Suggested State Legislation

For years the Council of State Governments has had a virtual monopoly on the business of drafting model legislation to be submitted in state legislatures. It is refreshing to note that the American Legislative Exchange Council has just issued a booklet of suggested legislation which contains a score of innovative proposals for the consideration of state legislatures. Passage of even some of this suggested legislation would make our states and communities much better places in which to live.

The American Legislative Exchange Council is committed to curbing the excessive growth and power of government, especially at the Federal and state levels. ALEC believes, like Thomas Jefferson, that the best form of government is that which is closest to the people -- namely, township, village, city, and county government. ALEC is also committed to making government more efficient, more accountable to the people, and more fiscally responsible.

Members of ALEC are Democrats, Republicans, and Independents, who are dedicated to preserving our individual freedoms, basic American values and institutions, private property rights, our productive free enterprise system, and getting back to limited representative government. They are state legislators and members of Congress who have affiliated with ALEC to share ideas and legislative proposals in all areas of public policy -- with emphasis on strengthening "grassroots" government as the alternative to centralized government in Washington.

This newsletter describes some of the 22 suggested pieces of state legislation developed by ALEC members and presented in a new booklet called "1977 Suggested State Legislation." The booklet contains an actual draft of each proposed bill, ready to be submitted to your legislature. The booklet is available at \$6.50 each from American Legislative Exchange Council, 600 Pennsylvania Avenue, S.E., Washington, D.C. 20003.

For the production of this useful booklet, commendations are due to the editors: Representative Donna Carlson of the Arizona Legislature and Representative Louis (Woody) Jenkins of the Louisiana Legislature. Senator Donald E. Lukens of the Ohio Legislature is the Chairman of ALEC.

Fiscal Responsibility

All taxpayers should welcome the proposed legis-

lation that would require every bill affecting the spending of state funds to have attached to it a reliable dollar estimate of both the immediate and the long-range costs.

The suggested legislation requires a reliable estimate of the extent to which any legislative instrument may affect the state treasury. It prohibits any committee of the legislature from holding hearings on any legislative instrument until a fiscal note on that instrument has been prepared by the legislative fiscal officer.

The fiscal note contains an estimate in dollars of the immediate and long-range costs of the measure, as well as a listing of any revenue it will produce or savings it will bring about. The cost is itemized in the fiscal note to reflect the capital expenditures and operating costs, including personnel, material, and supplies needed to implement the act.

Public Pension Plans

Calling attention to the impending financial crisis in the Federal Social Security program, another suggested bill is designed to protect public pension plans. It would require that every bill proposing a change in any retirement system funded by tax money shall have attached to it a reliable estimate of its financial and actuarial effect.

A recent study in 43 U.S. cities by the accounting firm of Coopers and Lybrand and the University of Michigan School of Business Administration has disclosed that 15 major cities do not maintain or report to the public and bond-buyers accurate unfunded liability figures, including pension debt.

Other nationwide studies show that waste, mismanagement, and high pension demands of government employee unions are threatening to bankrupt many local and state pension plans.

The suggested Retirement Systems Actuarial Review Act is designed to protect public pension plans and taxpaying citizens by requiring constant review of such programs for actuarial soundness. The legislation also requires that actuarial notes be attached to all proposed changes in laws governing municipal and state retirement systems.

Tax Limitation

To save us from the spiraling cycle of annual tax increases, a state constitutional amendment has been

suggested that would limit the total amount of taxes that can be imposed by the state. The tax revenue limit would be an appropriate percentage of total annual personal income in the state, and has ranged between 6 per cent and 14 per cent in those states where the amendment has been proposed.

The advantages of the suggested constitutional limitation on state taxation are (1) the state would have to encourage economic growth that increases personal income in the private sector in order to increase its own revenue for government programs; (2) state agencies would be forced to compete for state funding and demonstrate that they need the funds they receive; and (3) the legislature would be forced to review all existing government programs each year before approving new programs.

The suggested constitutional limitation on state taxation would prohibit the state from forcing municipalities to pay for certain state-mandated programs. It would further assure that any state revenue surplus is returned to taxpayers through tax refunds.

Federal Grant Review

A major problem of state legislatures in maintaining fiscally sound government and reconciling competing needs for state revenues is the continuing participation of state agencies, without the specific knowledge or approval of the legislature, in federal programs that will obligate state revenues and resources.

These unilateral administrative policy actions by state and federal agencies have created a large outlay of virtually "uncontrollable" annual expenditures in most state budgets, and have built a multitude of bureaucratic government programs with accompanying undesirable federal controls.

The suggested Federal Grant Review Act is designed to help solve this problem by requiring a legislative review of all state applications for federal assistance or participation in federal programs, prior to the submission of such applications to the federal agency involved.

Economic Impact Disclosure

Hard evidence is now available to show that government overregulation and abuse of administrative discretion is annually costing citizens hundreds of billions of dollars in higher prices for goods and services, as well as higher taxes to support the growing bureaucracy.

The cost of federal regulation of the economy and productive enterprise alone has been estimated to run as high as \$150 billion dollars a year. These costs are all passed on to consumers as higher prices, because they add to manufacturing and other costs of doing business in the private sector.

Although no estimates are available for comparable costs imposed on the public by state government regulation, it is certain that citizens are also having to pay additional hundreds of billions of dollars in higher prices and taxes for such state regulatory activity.

Acting on the belief that the public has a right to know the real economic burden imposed on citizens by government regulatory activity, compared with the purported social and other benefits of such regulations, state legislatures have proposed laws requiring a proper cost-benefit analysis of proposed government

regulations or administrative action before such action can be implemented.

The proposed Florida Economic Impact Disclosure Act of 1975 is widely regarded as a unique and imaginative solution to the problem. It requires administrative agencies and boards to establish the basis for new rules and regulations, demonstrate their economic impact through professionally accepted methodology, and justify their conclusions about the need for government administrative action.

Such responsiveness to citizen interests in any state should also help attract more industry, labor, and capital to the state.

The suggested Economic Impact Disclosure Act included in this volume is a slight modification of the Florida act, which was revised and improved by the Law and Economics Center of the University of Miami Law School. Possible companion measures are the suggested Administrative Rules Review Act and the Zero-Based Budget and Sunset Act.

Right to Property

A basic and natural right of all free people is the right to acquire and own property. America's Founding Fathers recognized that the desire for property, whatever its form, is deeply rooted in man's nature and his purpose for living.

Legal recognition and protection of private property was recognized as essential for any economy striving to achieve the best possible life for its people. As an extension of personal freedom and a necessary instrument of human dignity, private property has no equal as a stimulus for hard, sustained, imaginative, constructive work.

Many states have neglected to include this basic right in their state constitutions. At a time when property ownership is threatened by increasing government encroachments of all kinds, especially from the federal level, this suggested amendment is designed to protect the right to property.

Right to Keep and Bear Arms

Many states have adopted constitutional provisions guaranteeing their citizens the important individual right to keep and bear arms—for purposes of personal self-defense and protection of their families and property as well as for the protection of the state.

Advocates of outlawing personal gun ownership, national gun registration, and other gun control legislation have sought to limit severely the right to keep and bear arms, as contained in the Second Amendment to the U.S. Constitution. They maintain that this provision only guarantees the right to keep and bear arms in order to maintain "a well-regulated militia" for the protection of the state. They argue that personal gun ownership for non-military reasons can and should be restricted or outlawed, and that confiscation of guns is in keeping with the spirit and intent of the Constitution.

More than 100 pieces of proposed federal legislation to register and tax all firearms and to outlaw handguns were introduced in the 94th Congress. This suggested amendment is designed to protect the right to keep and bear arms for any personal, law-abiding reason, and to maintain the state and local government's autonomy in this important area of personal freedom.

Financial Privacy

The suggested Financial Privacy Act is designed to protect citizens and businesses from unwarranted disclosure of private financial information.

It prohibits banks, savings and loan associations, and companies issuing credit cards or credit accounts from revealing any specific financial or credit information to government officials or agencies, without permission from the individual or business concerned, a court order, or other legal authority.

The suggested act does not apply to general information normally furnished to establish a person's credit rating, or to a law enforcement agency's proper investigation of possible criminal activity.

Infant Protection

Since the 1973 U.S. Supreme Court decision of *Roe v. Wade*, which permitted women to have abortions on demand through the sixth or seventh month of pregnancy, or through term for socio-economic or mental reasons, an increasing number of live aborted babies that would otherwise continue to live are being allowed to die following the abortions. This is being done by withholding medical attention or food, through exposure, and sometimes by other methods.

Widespread concern over this insensitive and inhumane treatment of viable infants prematurely delivered by abortion has resulted in suggested legislation requiring doctors and other medical personnel to take all necessary steps in accordance with good medical practice to preserve the lives and health of viable live-born aborted infants.

The suggested act defines "viability" as "that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems." The U.S. Supreme Court has already upheld this definition of "viability" as constitutional, and declared it to be fully consistent with the previous pro-abortion *Roe* decision.

The suggested act, in addition to guaranteeing the "right to life" of aborted viable infants, also prohibits the use of any fetus or premature infant aborted live for any type of scientific research, laboratory, or other kind of experimentation.

Judicial Sentencing Disclosure

A major complaint of the public concerning the fight against crime is that many judges are overly lenient in their treatment of hardened criminals.

Convicted criminals are often given small prison terms or fines, and sentences are often reduced or suspended altogether by judges who are unwilling to impose the full sentence allowed by law.

The suggested Judicial Sentencing Disclosure Act is designed to help counter this trend towards excessive leniency by requiring a complete public record of a judge's sentencing history, which would be available for inspection by the media and the general public at all times during normal working hours.

The record would include the identity of every convicted criminal, all criminal charges of which the defendant was convicted, and all sentences handed down by judges in such cases.

Free Enterprise Education

A principal reason for public schooling is to ensure that young Americans are adequately prepared for citizenship in the competitive world of work. However, recent nationwide surveys and tests have demonstrated that students in many communities are not adequately informed about the American free enterprise system to understand and fully appreciate their role as workers and consumers, despite 12 years of continuous public education.

In some instances, public schooling includes instruction and curriculum materials that are hostile to free enterprise principles that have made the United States the most productive free nation in the world.

Many states have moved to counter this unfortunate trend by requiring instruction for at least one semester on the essentials and benefits of the productive free enterprise system. Such a course has been established as a pre-requisite for high school graduation.

The suggested Free Enterprise Education Act has been working successfully in several states.

Parental Rights

Across the country, parental discontent is rising over the use of certain educational materials and teaching methods in public school classrooms.

Controversial value-oriented school programs and materials promoted by national education organizations with substantial support from the federal government have strained the traditional cooperation between school personnel and parents in the education of children in communities nationwide.

These value-oriented programs include questionable curriculum materials and activities, including sensitive classroom discussions and role-playing of moral questions, student and family attitude surveys, personal inventories and tests, and other tools of "humanistic education."

This education trend has serious implications concerning potential conflicts between family values and values being imparted in the schools, and possible invasions of individual and family privacy. The suggested Parental Rights Act is designed to solve many of these problems inherent in the current involvement of public schools in value-oriented programs that use clinical psychological techniques to probe and mold the social, moral, political, and economic attitudes and values of students and their families.

The suggested act provides that parents and guardians of students must be informed of all such activities in their children's classrooms, and have the opportunity to review and inspect all textbooks and value-oriented materials intended to be used by their children in school.

It also establishes parents as the primary authority over what their children are taught, as well as activities they are involved in at school. The suggested act requires informed written consent of parents or guardians before their children can be subjected to any value-oriented programs, materials, tests, surveys, personal counseling, or other activities, and requires confidentiality and privacy for the protection of students and their families.

The suggested act also establishes the right of parents and guardians to review and correct all student

records involving their children.

Teacher Proficiency

Academic achievement among students in public schools throughout the nation has been on a steady decline for about 20 years.

Verbal and mathematical ability of students has dropped every year for 14 consecutive years, according to scores on the College Entrance Examination Board's Scholastic Aptitude Test (SAT). Scores on American College Testing Program (ACT) tests have also fallen during the past 11 years for which data are available.

This alarming deterioration of basic reading, writing, speaking, thinking, and mathematics skills among public school students nationwide is not restricted just to the one million college preparatory students who take SAT and ACT tests nationwide each year. This tragic decline of basic everyday skills is also occurring in the lower elementary and junior high school grades, where the learning of such skills will determine a person's success or failure during his entire working life.

The suggested Teacher Proficiency Act is designed to help stop and reverse the decline in basic academic skills among students at all grade levels, in public schools in all the states.

It simply requires that teachers themselves -- as a prerequisite for being awarded educator certificates -- be able to pass a test demonstrating their own proficiency in basic reading, writing, grammar, spelling, and mathematics in order to obtain a tax-salaried teaching or school administration job in the public school system.

Government Lobbying Prohibition

Government employees and agencies have engaged in lobbying activities and used public funds to promote passage or defeat of certain legislation. There are even instances in which government agencies or commissions have been established by legislation or executive order, purportedly for worthy objectives but in reality to promote partisan causes or legislation at taxpayers' expense.

Measures affecting the growth of power of the government bureaucracy and certain social or civil rights causes, such as the proposed Equal Rights Amendment, are instances in which public funds and resources have been used to influence or lobby for legislation.

Regardless of the merits of any proposed legislation, it is not appropriate for government officials or agencies to choose sides and use the resources and power of tax-funded government agencies to influence or manipulate the legislative process.

Such abuse of public tax funds and resources by government employees or agencies gives unfair advantage to one segment of the public, and uses the taxes of citizens who do not share the chosen government position on the issue against their own interests in the political process.

The suggested Government Lobbying Prohibition Act is designed to stop the misuse of public funds and resources to promote or defeat any proposed legislation.

Declining National Test Scores

School Year	SAT ¹ Score Averages		ACT ² Score Averages
	Verbal	Mathematical	Composite
1962-63	478	502	NA ³
1963-64	475	498	NA ³
1964-65	473	496	19.9
1965-66	471	496	20.0
1966-67	467	495	19.4
1967-68	466	494	19.0
1968-69	462	491	19.4
1969-70	460	488	19.5
1970-71	454	487	18.9
1971-72	450	482	18.8
1972-73	443	481	18.9
1973-74	440	478	18.7
1974-75	434	472	18.3
1975-76	431	472	NA ³

¹Scholastic Aptitude Test. Scale ranges from 200 to 800.

²American College Testing Program. Scale ranges from 1 to 36.

³Not Available.

SOURCE: College Entrance Examination Board and the American College Testing Program.

Zero-Based Budgeting

Zero-based budgeting is a successful management technique developed about eight years ago by Texas Instruments Inc., and carried from private industry to state government. It is a procedure for examining the entire budget, not just funds requested each year above the current level of spending.

Zero-based budgeting thus differs from traditional incremental budgeting, in which review is concentrated on proposed budget increases while the base is given little attention. The assumption underlying traditional incremental budgeting is that a program or activity deserves to be continued with the same or increased funding one year simply because it was funded the previous year.

The essence of the proposed Zero-Based Budget Act is the assumption that previous activities and expenditures of an agency should not be continued automatically—that all programs must be justified from a “zero-base” each time they are funded.

Copies of 1977 Suggested State Legislation are available at \$6.50 each from Miss Kathleen Teague, Executive Director, American Legislative Exchange Council, 600 Pennsylvania Avenue, S.E., Washington, D.C. 20003, or by calling 202/547-4646.

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