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I. Introduction

In the fourteen years since the National Conference of Commissioners on Uniform State Laws approved the Uniform Securities Act, much time and effort have been expended in revising the blue sky laws. The persons and organizations sponsoring such revision have generally approached their tasks with the objective of achieving some uniformity in an area which, since its inception, has been plagued with a multitude of diverse laws and rules often administered according to unpublished standards, sometimes in an uneven manner. Another announced objective has been the re-evaluation of the function of securities regulation in light of modern conditions. Toward the goal of uniformity, the legislatures of 25 states[1] have enacted statutes which purport to be based upon the Uniform Securities Act, and two other states have enacted versions of the Act's registration by coordination provisions.[2] But the sponsors in many of these states, apparently in an effort to improve upon the draftsmanship of Professor Loss and Mr. Cowett, felt free to apply their personal handiwork in revising the Uniform Act for adoption in their own jurisdictions. Thus, the present state of affairs reveals that, while there is greater uniformity than before, less than half of the states have enacted all four parts of the Act,[3] and even these states treat the Act in an often nonuniform manner. With respect to the re-evaluation objective, several states have enacted entire revisions of their securities laws which are shocking in

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1. Alabama, Alaska, Arkansas, Colorado, Hawaii, Idaho, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, Oklahoma, Oregon, South Carolina, Utah, Virginia, Washington, Wisconsin, and Wyoming. The Nevada and New Jersey legislatures enacted only the broker-dealer provisions. 1 Blue Sky L. Rep. ¶ 4901 (1969).

2. Cal. Corp. Code § 25111 (West Supp. 1969); Tex. Rev. Civ. Stat. Ann. art. 581-7(C) (1964).

3. The Act is divided into 4 parts: (1) fraudulent and other prohibited practices; (2) registration of broker-dealers, agents and investment advisers; (3) registration of securities; and (4) general provisions applicable to each of the first 3 parts. The Act was divided in this manner so that any one of the first 3 parts could be enacted separately or in combination with other parts. *See* L. Loss & E. Cowett, Blue Sky Law 249 (1958).

their overly regulatory approach and their strong reliance upon the old subjective standards which were targets of criticism in the predecessor blue sky laws.[4]

Any discussion of reform in this area must distinguish between the uniformity goal and the more significant need for reappraisal of the philosophy underlying the traditional merit systems prevailing in most of the states, under which securities administrators are given broad powers to evaluate the "merits" of any offering. In this connection, lawyers blue skying a national issue have suffered for years from the unnecessary complexity and variety of forms, procedures and substantive rules which are often vague and unpublished.[5] This problem has generally served only to raise the cost of compliance. Thus, lawyers have charged higher fees in accordance with the extra time needed to uncover and meet the diversity of regulations. This added cost has been passed on to the corporations they represent. But the problems stemming from the policy of merit regulation have had a greater impact than the lack of uniformity, since they may actually prohibit businessmen from financing new ventures via the market for public capital. Reform in this context has scarcely been considered, and the blue sky administrators continue to retain great power over the financial structures of companies offering securities in their jurisdictions.

This power is manifest primarily in regulations designed to (1) limit the amount of stock taken by organizers of new businesses for their promotional activities (promotional and "cheap" stock); (2) limit the amount of dilution of the public investors' interests; (3) require a minimum dollar amount which must be contributed to the corporation's capital by the promoters in cash or its equivalent depending on the price charged to outside investors;[6] (4) require escrow

4. For a discussion of the new Wisconsin and California laws, see the textual material beginning at note 24 *infra*.

5. Gray, *Blue Sky Practice—A Morass?*, 15 WAYNE L. REV. 1401, 1519 (1969).

6. For rules with respect to items 1, 2, and 3 listed in the text, see Cal. Admin. Code § 260.140.31 (1969), 1 BLUE SKY L. REP. ¶ 8619 (1969); NEV. REV. STAT. § 90.155 (1967), 1 BLUE SKY L. REP. ¶ 31,121 (1969); Regs. Ariz. Corp. Comm'n, Order Nos. S-5, S-7, 1 BLUE SKY L. REP. ¶¶ 6655, 6657 (1963); Sec. Rules, Ark. State Bank Dept., Sec. Div., Rule 5c (1968), 1 BLUE SKY L. REP. ¶ 7605 (1968); Regs. Colo. Div. Sec., Rule V(D), 1 BLUE SKY L. REP. ¶ 9706 (1967); Rules Fla. Sec. Comm'n, 330-1.08, 1 BLUE SKY L. REP. ¶ 13,608 (1968); Regs. Idaho Comm'r Fin. § 27, 1 BLUE SKY L. REP. ¶ 15,616 (1968); Gen. Rules & Regs. Ill. Sec. Law, Rule 150, 1 BLUE SKY L. REP. ¶ 16,627 (1967); 81 Kan. Admin. Regs., art. 81-7-1(c), 2 BLUE SKY L. REP. ¶ 19,707 (1966); Ky. Dept. of Banking & Sec., Supp. to Admin. Ruling No. 1, 2 BLUE SKY L. REP. ¶ 20,601 (1969); Mich. Dept. Commerce, Sec. Bur., Rule 706.6, 2 BLUE SKY L. REP. ¶ 25,635 (1969); Minn. Admin. Rules & Regs., S. DIV. 42, 2

of promotional shares for a period of time or until an earnings or dividend test has been met;[7] (5) restrict the number of options and warrants granted; (6) restrict the amount paid as expenses in connection with the public offering;[8] and (7) regulate the kinds of securities sold publicly (restrictions on nonvoting and senior securities).[9]

In short, blue sky administrators, through such regulation, may virtually dictate the capital structures and methods of financing of firms offering securities in their jurisdictions. If the businessman is unhappy with the administrator's rules or unable to comply with them, he may of course withdraw the offering from that state and attempt to sell it in another state which has less strict regulations. As a practical matter, this result has occurred on many occasions. But the fact an underwriter may withdraw an issue that does not qualify, for example, in Illinois and offer it in New York merely serves to emphasize the need for revision in Illinois, if the costs of such regulation to Illinois are greater than the benefits. Thus, the policy of merit qualification of securities is the area most in need of reappraisal and reform.

BLUE SKY L. REP. ¶ 26,604 (1966); Okla. Sec. Comm'n Statement of Policy, 2 BLUE SKY L. REP. ¶ 39,707 (1967); Ore. (not published); S.D. Regs. Comm'r Sec., pt. 11G, 3 BLUE SKY L. REP. ¶ 44,609 (1967); Tenn. Comm'r of Ins. & Banking, Admin. Rulings, pt. 1, 3 BLUE SKY L. REP. ¶ 45,631 (1967); Tex. Sec. Comm'r Regs., 3 BLUE SKY L. REP. ¶ 46,601 (1968); Utah Sec. Comm'n, Form Letter #10 (1967); Wash. Adm'r of Sec., Rule 11, 3 BLUE SKY L. REP. ¶ 50,611 (1968); Wyo. Secretary of State, Rules & Reg., ch. IV, § 1(c), 3 BLUE SKY L. REP. ¶ 53,612 (1968).

7. ALA. CODE tit. 53, § 34(b) (Supp. 1967); ALASKA STAT. § 45.55.110(g) (1962); ARIZ. REV. STAT. ANN. § 44.1876 (1967); ARK. STAT. ANN. § 67-1245(g) (1966); CAL. CORP. CODE § 25141 (West Supp. 1969); COLO. REV. STAT. ANN. § 125-1-10(7) (1963); FLA. STAT. ANN. § 517.18 (1962); GA. CODE ANN. § 97-104.1(c) (1968); HAWAII REV. LAWS § 485-18 (1968); IDAHO CODE ANN. § 30-1428 (1967); ILL. ANN. STAT. ch. 121½, § 137.11(E) (Smith-Hurd Supp. 1970); IND. ANN. STAT. § 25-860(j) (Supp. 1969); IOWA CODE ANN. § 502.20 (1949); KAN. STAT. ANN. § 17-1259(d) (Supp. 1969); KY. REV. STAT. ANN. § 292.380(2) (1963); LA. REV. STAT. ANN. § 51:713 (1965); MICH. STAT. ANN. § 19.776(305)(f) (Supp. 1969); MISS. CODE ANN. § 5364 (Supp. 1968); MO. ANN. STAT. § 409.305(f) (Supp. 1969); MONT. REV. CODE ANN. § 15-2011(2) (1967); NEB. REV. STAT. § 8-1108(2) (Supp. 1965); N.J. STAT. ANN. § 49:3-61(e) (Supp. 1969); N.M. STAT. ANN. § 48-18-19(C) (1966); N.C. GEN. STAT. § 78-11(1) (1965); N.D. CENT. CODE § 10-04-08.1 (1) (Supp. 1969); OHIO REV. CODE ANN. § 1707.09(K) (Baldwin 1964); OKLA. STAT. ANN. tit. 71, § 305(g) (Supp. 1969); ORE. REV. STAT. § 59.085(3) (1967); S.C. CODE ANN. § 62-165 (1962); TENN. CODE ANN. § 48-1650 (1964); UTAH CODE ANN. § 61-1-11(7) (1968); VT. STAT. ANN. tit. 9, § 4223 (1958); VA. CODE ANN. § 13.1-510(b) (1964); WASH. REV. CODE ANN. § 21.20.250 (1961); W. VA. CODE ANN. § 32-1-16 (1966); WIS. STAT. ANN. § 189.17(1) (1957); WYO. STAT. ANN. § 17-117.11(g) (1965); Minn. Admin. Rules & Regs., S. Div. 43, 2 BLUE SKY L. REP. ¶ 26,604 (1966); S.C. Regs. Comm'r See., pt. 11G, 3 BLUE SKY L. REP. ¶ 44,609 (1967).

8. *Cf.*, ILL. REV. STAT. ch. 121½, §§ 137.5(B)(3), (C)(3) (Smith-Hurd Supp. 1969).

9. *See, e.g.*, Fla. Sec. Comm'n Rule 330-1.09, 1 BLUE SKY L. REP. ¶ 13,609 (1970).

The foregoing emphasis on the merit system of securities qualification is not intended to imply that the other aspects of the state securities law (broker-dealer regulation and the fraud and enforcement provisions) are not in need of analysis. A majority of the states have laws dealing with the competency, criminal background and honesty, and financial responsibility of persons wishing to engage in the securities business.[10] With respect to competency, most of the states prescribe examinations that are so simple they may be successfully passed by a person with very little training, experience, and knowledge.[11] The background investigation is often no more than a questionnaire asking whether the applicant has been convicted of certain crimes, supplemented in some states by fingerprinting that is checked against FBI files.[12] Financial responsibility is measured by a minimum capital[13] and/or bonding requirement.[14]

The competency and financial responsibility standards are so minimal that they tend to have little impact. In any event, broker-dealer regulation in the states is generally confined to qualification with the foregoing minimum requirements before a prospective broker-dealer may enter the industry, and there has been practically no enforcement of broker-dealer standards after initial clearance for entry into the business. Almost all broker-dealers, however, join the National Association of Securities Dealers, Inc., or become registered with the Securities and Exchange Commission before engaging in the securities business. Consequently, they must comply with the NASD or SEC rules which are usually at least as strict as those of the state with respect to competency, background, and financial responsibility. Thus blue sky regulation in this area is in most instances a duplication of federal or NASD regulation. As such, meaningful revision probably would include repeal of the broker-dealer provisions in the state laws. But the cost of such regulation is probably not very great, and it does not appear that the laws are severe enough to preclude many persons from entry into the business.

The fraud and enforcement provisions of the blue sky laws, like the enforcement provisions in the broker-dealer area, have been neglected by most of the state administrators who have concentrated their efforts on disclosure and judgment of the merits of offerings prior

10. *See* 1 L. Loss, SECURITIES REGULATION 43-48 (2d ed. 1961, Supp. 1962).

11. *See* Peterson, *Maybe I Knew Just Enough to be Dangerous*, The National Observer, Nov. 24, 1969, at 1, col. 1.

12. *See, e.g.*, Fla. Sec. Comm'n Rule 330-3.09.

13. *See, e.g.*, Cal. Admin. Code, tit. 10, Rule 260.216.12 (1969) ($25,000).

14. *See, e.g.*, FLA. STAT. § 517.12 (Supp. 1969) ($5,000).

to public sale. Thus the administrators have had little impact with respect to investigation and prosecution of fraudulent promoters. For this reason and for the reasons given with respect to regulation of entry of broker-dealers into the securities industry, revision in these areas is probably not critically needed. Consequently, the primary emphasis of this article is confined to the problems of reform in connection with the policy of merit qualification of securities.

II. POLITICAL CONSIDERATIONS

One cannot present a careful analysis of the possibilities of reform of the state securities laws without giving appropriate recognition to certain political realities. After all, the power of the blue sky administrators is granted by statute, and the potential for revision of these statutes rests with the members of the state legislatures. Thus it is important to consider such matters as the composition of state legislatures, political groups who would lobby for change, and political forces that would be against reform.

Because of the method of election of state legislators, most legislatures have traditionally been controlled by rural representatives. Although this situation has begun to change in recent years, rural legislators are still a significant factor in many state legislatures. Such representatives tend to be unsophisticated in matters such as securities regulation. Even most urban legislators have little if any understanding of the complexities of the marketing of securities and the functions and activities of broker-dealers. Consequently, it is unlikely that most legislators would propose significant reform in this complicated and specialized area. Furthermore, it is not surprising that such lawmakers approach new or different concepts in securities regulation with considerable trepidation. This fear is heightened considerably when they are told by blue sky administrators that the existing merit system in this area "has, in countless instances, protected investors and saved, in the aggregate, many millions of dollars."[15] This statement by administrators has typified the rationale for the existence of blue sky laws since Kansas enacted the first law in 1911.[16]

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15. Hueni, *Application of Merit Requirements in State Securities Regulation*, 15 WAYNE L. REV. 1417, 1445 (1969).

16. Ch. 133 [1911] Kan. Session Laws (H.B. 906) (amended by Senate Bill 145, Session of 1913). As administrator of the first comprehensive regulatory statute in this area, J.N. Dolley, in his first annual report stated: "This law, as you know, was something entirely new in the business world, but I am pleased to inform you that we have worked the same out in a very nice shape and accomplished some wonderful results. I estimate that it has saved the people of this State at least six million dollars since its enactment. Between fourteen and fifteen hundred

The modern administrators have not offered any evidence of the number of "millions" that have allegedly been saved; nor have they inquired into the quantitative losses to their states' economies occasioned by the denial of or withdrawal from registration of securities that do not meet the applicable standards. Most legislators simply do not have enough interest and understanding in this area to request such evidence. Instead, unsophisticated elected representatives generally find it easier and more politically expedient to withdraw from any controversy and not tamper with existing statutes and rules. This reaction is certainly understandable when the members of the legislature are presented with a so-called professional statement by the state administrator that "our files . . . and undoubtedly the files in most other states, are replete with cases where securities applications were withdrawn or never filed because of objections involving soundness or fairness and where the issuer subsequently met financial disaster."[17]

Legislators who have little experience or background in an area generally rely on the opinions and judgments of their fellow law-makers who have some expertise with respect to the particular problem. Experienee has demonstrated that this proposition is true with respect to reform of the blue sky laws, except in those instances when the proposed reform is opposed by the state securities administrator for reasons similar to those stated above. In the latter case, it is simply more politically prudent for the unsophisticated legislator to side with the forces resisting change. Even if unopposed, a bill is often apt to be caught in a legislative log-jam, and fail to be brought up for passage.[18]

Another significant political reality is the fact that affirmative sponsorship by important legislative leaders is necessary to enact major revisions of laws. Assuming such leaders have no personal reasons for fostering change, they will have to be provided with some trade-off as an incentive for their support. This is not to imply that legislative leaders regularly bargain for money in return for their help. But it is true that politicans often require some benefit for themselves or their

companies have been investigated by this Department since the enactment of this law, and of this number less than one hundred have been granted permits to sell their securities in Kansas." Quoted in Mulvey, *Blue Sky Law*, 36 CAN. L.T. 37,38 (1916) and L. LOSS & E. COWETT, BLUE SKY LAW 9 (1958).

17. Hueni, *supra* note 15, at 1445.

18. For example, an unopposed bill sponsored by the Wisconsin Securities Administrator designed to grant an exemption from registration to New York Stock Exchange listed companies met such a fate. *See* Bolliger, *The New Wisconsin Uniform Securities Law*, 25 BUS. LAW. 223, 230 (1969).

constituents before they will expend time and effort and use political favors to help a cause in which they have no personal interest. Therefore, those groups attempting to achieve fundamental reform of the blue sky laws will be concerned with whether they can offer something to induce political leaders to advocate such revision.

If reform movements do not originate with unsophisticated legislators and if such politicians resist change when revision is opposed by state administrators, there must be other groups with the knowledge and political muscle to propose changes and cause them to be acted upon by legislatures. Other than the administrators themselves, lawyers who represent public companies comprise the most knowledgeable group in this area, and such persons might be expected to know where change is most needed. But aside from procedural reforms that would simplify the ministerial aspects of their work, it would be contrary to the best interests of securities lawyers to advocate major revision in the underlying policy of merit regulation. After all, attorneys are paid for leading their clients through the morass of blue sky laws.[19] Furthermore, experience has shown that many lawyers who have served with government agencies indicate little appreciation for the economics of the industries they regulate. Finally, it is unrealistic to think that securities lawyers, who must maintain an amiable on-going relationship with state administrators, would openly advance changes in the law to which the administrators would be opposed. For example, at the annual conference of the North American Securities Administrators, after conclusion of a panel discussion of the philosophy of merit regulation,[20] I was approached by several of the securities lawyers in attendance. These lawyers expressed approval of my arguments against the paternalism of the blue sky laws but said they could not openly support these propositions.

Businessmen whose firms are affected by blue sky regulation might be persons who would sponsor revision. But companies that are already public and have substantial assets are not frequently affected by the state securities laws. This kind of regulation is aimed primarily at new

19. This statement is made with some reservation. Recently, the author has had the opportunity to work with two South Florida securities lawyers who devoted considerable time and effort to help effect some changes in the Florida securities laws. Due to their effort, amendments were enacted to these laws in the 1969 Legislature. FLA. STAT. §§ 517.05, 517.06 (Supp. 1969). *See* Mofsky, *State Securities Regulation and New Promotions: A Case History*, 15 WAYNE L. REV. 1401 (1969).

20. Panel Discussion: *What Price Blue Sky?*, PROCEEDINGS OF THE 52ND ANNUAL CONFERENCE, NORTH AMERICAN SECURITIES ADMINISTRATORS (Oct. 1969).

business promotions and speculative first offerings.[21] Accordingly, corporate officials of companies that could afford to lobby for reform are generally uninterested in such change, and corporate officials of new promotions often cannot afford the costs of sponsoring revision. Moreover, the founders and promoters of new businesses are not organized for these or other purposes. The separate voices of promoters of new ventures raised at different times are like cries from the wilderness in the context of the kind of loud noise needed to generate legislative action.

Other sources which might be expected to participate in reform movements are investment banking firms that underwrite public offerings of securities. The larger firms that are members of the major national securities exchanges, however, generally do not underwrite the kind of offering that would be seriously hampered by the merit system of regulation. Several New York Stock Exchange member firms, for example, usually require, among other standards, at least $2,000,000 in sales and $500,000 in net earnings before they will issue a letter of intent for a firm commitment underwriting. Companies with sales and earnings figures of this magnitude generally have substantial operating histories and consequently would not be subject to rules regarding minimum promoter investment, restrictions on cheap stock, dilution of outside investors' interests, and escrow of promotion stock. Thus, with the notable exception of the 1966 dealer-sponsored study in Wisconsin,[22] the larger brokerage concerns have not urged significant reform. If they are confronted with severe restrictions in a particular state, they simply omit that jurisdiction in the offering.[23] It is also probable that large national brokerage firms silently oppose reform in this area, since the entry of additional businesses into the market for

21. As previously mentioned, such regulation is usually applied in terms of rules regarding minimum promoters' investment, restrictions on cheap stock and dilution of outside investors' interests, limitation on options and warrants, escrow of promotion stock, impoundment of proceeds of an offering and regulation of the costs of an offering. For detailed discussion of these matters, see Bloomenthal, *Blue Sky Regulation and The Theory of Overkill*, 15 WAYNE L. REV. 1447 (1969); Hueni, *Application of Merit Requirements in State Securities Regulation*, 15 WAYNE L. REV. 1417 (1969); Mofsky, *Blue Sky Restrictions on New Business Promotions*, 1969 DUKE L.J. 273. For a case history illustrating how these standards are applied within a specific jurisdiction, see Mofsky, *supra* note 19. *See also* FORTUNE, July 1957, at 122.

22. *See* text accompanying note 48 *infra*.

23. "A number of large New York underwriting firms began to counter this treatment [denial of registration] by simply adopting policies not to offer in Wisconsin. The result was a denial of participation to Wisconsin dealers in underwriting and selling groups and denial of a market in Wisconsin for important offerings which should have been available. Obviously, this did not go unnoticed in the Wisconsin dealer community." Bolliger, *supra* note 18.

public capital would provide unwanted competition for the public investors' funds. It is the smaller over-the-counter investment banking house engaged in the underwriting of new promotions that is most dramatically affected by state regulation. But such broker-dealers usually do not have the individual financial or organizational strength to lobby effectively for such reform.

III. Story of Two States

Revision is sometimes sponsored by the administrators themselves. But studies resulting in this revision have been undertaken under the prejudiced predisposition that the philosophy underlying merit regulation is essentially correct and not subject to challenge or in need of rigorous economic testing. Thus these revisions in their final forms are often guilty of sins quite similar to the ones they superseded. It is submitted that this result occurred in connection with the new securities statutes and rules enacted and adopted in the important commercial states of California and Wisconsin.[24]

The former Commissioner of Corporations of California, under whose auspices the new statute was drafted, heralded the new law as "a major revision of the system and philosophy of securities regulation in the State of California and . . . the first such revision in over fifty years."[25] He added:

> The New Law is the product of a drafting committee of outstanding California lawyers, legislators, and law professors which I appointed in the Spring of 1967. The objectives of this committee were a total reappraisal of the function and purposes of securities regulation in California and the elimination of regulatory effort and burden where such was unnecessary or duplicative of the regulatory efforts of the Securities and Exchange Commission.[26]

With such an impressive announced motivation underlying the revision, one would be led to expect that the drafting committee would perform a conscientious and objective study of the benefits and costs of California's experience of over fifty years with a stringent merit system of regulation. To this writer, for example, a "total reappraisal" ought to include a quantitative measurement of the net loss or gain to California's economy and its citizens as a result of its form of regulation.

Critics of this suggestion could object only on the basis that it

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24. CAL. CORP. CODE § 25,000 *et. seq.* (West Supp. 1969); Wis. Uniform Securities Law, ch. 71, 3 BLUE SKY L. REP. ¶ 52,202 (1969).

25. VOLK, THE CALIFORNIA CORPORATE SECURITIES LAW OF 1968—A SIGNIFICANT CHANGE FROM PRIOR LAW 77 (1968).

26. *Id.*

would not be feasible to perform such studies. But such studies can be accomplished in a meaningful manner. With appropriate research, for example, it would not be difficult to compute the gain or loss that would result if a person had invested 10,000 dollars equally in those securities issues that had been *denied* registration in California because they did not meet that state's standards. Of course, to be manageable this kind of measurement would have to be limited to securities that were denied registration over a specific and representative time period. The net gain or loss from the above computation could then be compared with the gain or loss which would result if a person had invested 10,000 dollars equally in those securities issues that *did* qualify for registration in California during the same time period.

If this calculation showed that the regulation had saved the imaginary investor a significant amount, the drafting committee would have performed a form of reappraisal that justified a continuation of strict regulation. It is this writer's opinion that contrary results would be indicated. But no such study or comparable analysis was undertaken, and it is interesting that the drafting committee was composed of lawyers, legislators, and law professors, but that it did not include economists or persons trained in such analysis. Another kind of analysis that could have been an obvious contribution in this connection would have been a comparison of California with New York's substantial experience with non-merit type regulation. Again, however, this possibility was not reported as having been seriously considered. Nevertheless, the committee moved forward and prepared an exhaustive scheme of regulation which, while it is an improvement, is in this writer's opinion excessively regulatory and too narrow in its exemptions.

Although a detailed critique of the new California law is not within the scope of this article; it might be beneficial to examine several of the more important changes in the statute. Probably the most significant areas of substantive modification in the new law are the exemptions from regulation.[27] Of the exemptions contained in the majority of blue sky laws, the one most commonly used for the financing of small businesses is the private or limited offering exemption. The philosophy underlying this exemption is based upon the social and economic benefits that result from permitting the organizers of new businesses to raise their requisite capital from a limited number of friends, relatives, and acquaintances without being subjected to the

27. *Id.* at 78.

expense, time, and possibility of denial associated with qualification of securities.

There is some form of limited offering exemption presently available in 47 states.[28] The statutes of 27 states[29] contain exemptions for offers directed to not more than a stated number of persons (ranging from 10 to 25 offerees) during any twelve month period, provided the seller reasonably believes all buyers are purchasing for investment and no commission or other remuneration is paid for soliciting offerees. Statutes in fourteen states characterize the exemption in terms of the number of ultimate shareholders after the sale of securities (ranging from 5 to 35 shareholders).[30] Four states have statutes which limit the exemption in terms of the number of offerees or buyers (15 to 30) and/or a maximum dollar amount (25,000 to

28. The statutes of Minnesota, Rhode Island, South Dakota, and Vermont do not expressly provide limited offering exemptions. These states, however, have been included in computing this number because the isolated sale exemption is available to the "issuer." *See* MINN. STAT. ANN. § 80.06(2) (Supp. 1970); R.I. GEN. LAWS ANN. § 7-11-8(a) (1956); S.D. COMPILED LAWS ANN. § 47-31-82 (1967); VT. STAT. ANN. tit. 9, § 4204(3) (1947). Although no such exemptions are contained in the New Hampshire, Delaware, and Connecticut statutes, exemptions would not be needed in Connecticut and Delaware since there is no requirement for registration of securities in those jurisdictions. Consequently, some form of small offering exemption is available in all states except New Hampshire.

29. ALA. CODE tit. 53, § 38(i) (Supp. 1967); ALASKA STAT. § 45.55.140(b)(5) (1962); ARK. STAT. ANN. § 67-1248(b)(9) (1966); COLO. REV. STAT. ANN. § 125-1-13(2)(j) (1963); FLA. STAT. ANN. § 517.06(11) (Supp. 1969); GA. CODE ANN. § 97-107(j) (1968); HAWAII REV. STAT. § 485-6(9) (1968); IDAHO CODE ANN. § 30-1435(8) (1967); ILL. ANN. STAT. ch. 121½, § 137.4(G) (Smith-Hurd Supp. 1969); IND. ANN. STAT. § 25-855(b)(10) (Supp. 1969); IOWA CODE ANN. § 502.5(15) (Supp. 1970); KY. REV. STAT. ANN. § 292.410(9) (Baldwin 1969); LA. REV. STAT. ANN. § 51:705(12) (Supp. 1970); MD. ANN. CODE art. 32A, § 26(b)(9) (1967); MICH. STAT. ANN. § 19.776(402)(b)(9) (Supp. 1969); MO. ANN. STAT. § 409.402(b)(9) (Supp. 1970); MONT. REV. CODE ANN. § 15-2014(8) (1967); NEB. REV. STAT. § 8-1111(9) (Supp. 1965); NEV. REV. STAT. § 90.075 (1967); N.J. STAT. ANN. § 49:3-50(b)(9) (Supp. 1970); N.C. GEN. STAT. § 78-4(7) (1965); OKLA. STAT. ANN. tit. 71, § 401(b)(9) (1965); ORE. REV. STAT. § 59.035(12) (1968); S.C. CODE ANN. § 62-52(9) (1962); TEX. REV. CIV. STAT. art. 581-5(I) (1964); WASH. REV. CODE ANN. § 21.20.320(9) (1961); WYO. STAT. ANN. § 17-117-14(b) (1965).

New York has in effect enacted an exemption limiting the number of offerees since it impliedly adopted the private offering exemption available under the federal act. *See* N.Y. GEN. BUS. LAW § 359-ff(5) (McKinney Supp. 1969).

30. ARIZ. REV. STAT. ANN. § 44-1844(10) (1967); CAL. CORP. CODE § 2510(h) (West Supp. 1970); IOWA CODE ANN. § 502.5(15) (Supp. 1970); KAN. STAT. ANN. § 17-1262(h) (1964); ME. REV. STAT. ANN. tit. 32, § 874(9) (Supp. 1970); MISS. CODE ANN. § 5384.5 (Supp. 1968); N.M. STAT. ANN. § 48-18-22(j) (1966); OHIO REV. CODE ANN. § 1707.03(O) (Page 1964); PA. STAT. ANN. tit. 70, § 32(f)(10) (1965); TEX. REV. CIV. STAT. art. 581-5(I) (1964); UTAH CODE ANN. § 61-1-14(2)(i) (1968); VA. CODE ANN. § 13.1-514(b)(8) (Supp. 1968); W.VA. CODE ANN. § 32-1-4(h) (1966); WIS. STAT. ANN. § 189.07(1) (1957).

100,000 dollars).[31] Finally, the remaining jurisdictions have isolated sale exemptions which operate as limited offering exemptions.[32]

Prior to the 1968 law, there was no such exemption in California.[33] The new exemption is limited to the offer or sale of voting common stock by a California corporation if, after conclusion of the proposed sale, "there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than five persons."[34] The exemption is further restricted to placements where there has been no advertisement, and no selling expenses or promotional considerations have been paid or incurred.[35] Unless some other exemption is available (and there are generally no other meaningful exemptions available in California for most new or recently organized businesses), a corporation which already has five shareholders must qualify its securities before it can solicit and accept new capital.

Except for New Hampshire where there is no limited offering exemption at all,[36] the California exemption is the most restrictive in the United States. Whereas the statutes in a majority of jurisdictions[37] exempt the offer of securities to a limited number of persons during a twelve month period, California places a permanent maximum limitation of five on the number of ultimate shareholders. If there are several promoters of the new company and they wish to participate as shareholders, the number of persons from whom they can raise necessary capital is thus seriously limited. For example, if there are three promoters who anticipate contributing only an idea and know-how to the new company, they must raise the entire working capital from only two investors if they wish to avail themselves of the exemption. The severe restriction on numbers may also create control problems which eventually cause promoters to forsake forming the new business rather than surrender control to outside investors.[38] In short,

31. *See* GA. CODE ANN. § 97-107(i) (1968); MASS. GEN. LAWS ANN. ch. 110A, § 3(f) (1967); N.D. CENT. CODE § 10-04-06(9) (Supp. 1969); TENN. CODE ANN. § 48-1632(G) (1964).

32. *See* note 28 *supra.*

33. VOLK, *supra* note 25, at 81.

34. CAL. CORP. CODE § 25,102(h) (West Supp. 1970).

35. "Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more persons, takes the initiative in founding and organizing the business or enterprise of an issuer, for services rendered in connection with such founding or organizing." *Id.* § 25,102(h)(4).

36. *See* note 28 *supra.*

37. *See* note 29 *supra.*

38. For a more detailed discussion of this control problem, see Mofsky, *Blue Sky Restrictions on New Business Promotions*, 1969 DUKE L.J. 273, 281.

this number restriction is entirely too narrow and, from the experience of this writer, not very helpful in the private financing of new businesses.

The limitation of the exemption to California corporations and the prohibition against selling expenses are also unjustifiable. The fact that a business is incorporated in California rather than Delaware provides little extra protection to shareholders of that firm, and in many instances it is very desirable for shareholders to have the participation and interest of investment bankers or other financial intermediaries in the firm's development.[39] Such participation or interest will usually not be given in connection with small, closely held companies unless the investment banker is paid a fee for his assistance in raising the initial capital.

Another new exemption which the former Commissioner labels as significant[40] is the provision which eliminates the requirement that an issuer obtain a negotiating permit in a nonpublic offering. This provision exempts an offering which is not public, provided an agreement delivered pursuant to the offer conditions the issuance of securities and the acceptance of payment therefore upon the later qualification of such securities.[41] No part of the purchase price may be received and none of the securities may be issued until the securities are qualified. The proposed rules of the Commissioner define a nonpublic offering in this context as one in which the offering is made to not more than 25 persons via direct negotiation.[42]

Under this exemption, it is conceivable that a promoter could spend considerable time and funds in preparation of a financial plan and in organizing an investment group, only to have the Commissioner of Corporations reject the proposal for failing to meet the fair, just, and equitable standard which has been retained in the new statutes.[43] But aside from the uncertainty and costliness of this kind of regulation, it is difficult to understand why the drafting committee did not simply provide a blanket 25 person exemption modeled after the private

39. For a detailed discussion of these points, see *id.* at 278-81. Recent amendments to the Florida Securities Act have abolished the incorporation in Florida requirement and the prohibition against selling expenses in connection with post-incorporation private placements. FLA. STAT. ANN. § 517.06(11) (Supp. 1969). The new exemption in the revised Wisconsin law also eliminates the requirement that the issuer be a Wisconsin corporation and the Wisconsin Commissioner is granted authority to waive the prohibition against selling expenses. Wis. Uniform Securities Law ch. 71, § 551.23, 3 BLUE SKY L. REP. ¶ 52,213 (1969).

40. *See* VOLK, *supra* note 25, at 80.

41. CAL. CORP. CODE § 25,102(a) (West Supp. 1969).

42. *See* VOLK, *supra* note 25, at 80.

43. CAL. CORP. CODE § 25,140 (West Supp. 1969).

offering exemption contained in section 4(2) of the Securities Act of 1933.[44] It would be hardly unsound to grant corporations an exemption to offer and sell securities to 25 financially sophisticated persons in California. This exemption has apparently worked well with respect to the federal law, as evidenced by the fact that the SEC has not recommended any change to the Congress. It is submitted that it would be more efficient to assign administrative personnel to the investigation and prosecution of fraud rather than to the job of evaluating the merits of a new business; the market's judgment in this respect has always proved superior.

The former California Commissioner has stated that the above exemptions, together with several other narrow exemptions,[45] would reduce "the workload of the Division of Corporations in connection with qualifications by in excess of 60 percent thereby reducing by twelve thousand the number of permits processed under the existing law during a typical fiscal year."[46] Since there were approximately 500 staff members in the Division of Corporations prior to the enactment of the new law, there should now be approximately 200 employees. The cost of those 300 displaced staff members who formerly examined offerings of the type now exempted must have been tremendous. Professor Bloomenthal has suggested how much more justifiable that cost would have been if the 300 employees, properly trained, had been efficiently operating in the area of enforcement of the fraud provisions of blue sky laws, an area in which the state administrators have hardly functioned.[47] With a greater emphasis on enforcement, the truly fraudulent promoter who, for example, does not register the securities at all and offers them in direct contravention of the state laws could be discovered, investigated, and prosecuted. Yet by virtue of their present misallocation of manpower the state administrators seldom reach such activity.

The new Wisconsin securities law was undertaken with a view toward structural revision and bringing the law of Wisconsin into accord with modern needs.[48] But the results in Wisconsin may be

44. *Cf.* 15 U.S.C. § 77(d) (1964).

45. These other exemptions include New York Stock Exchange listed securities; securities issued by railroads, common carriers, and public utilities; offers to banks, savings institutions, trusts and insurance companies, and registered investment companies; offers to certain institutional investors; certain subsidiary investments; and certain reorganizations. CAL. CORP. CODE §§ 25102, 25103, 25104 (West Supp. 1970); *see* VOLK, *supra* note 25, at 81.

46. VOLK, *supra* note 25, at 81.

47. *See* Bloomenthal, *supra* note 21, at 1481.

48. Bolliger, *supra* note 18, at 231.

analogized to those in California: an exhaustive, overly regulatory, and highly discretionary law which, while it purports to provide the groundwork for uniformity with other states, differs in major substantive and technical respects from the Uniform Securities Act.

The political factors which resulted in the new Wisconsin statute and rules are interesting, and these factors shed some light on the practical problems of revision in this area. For several years prior to 1967, a significant number of registrations were denied qualification in Wisconsin on grounds which were considered highly questionable by the brokerage firms underwriting the issues. Members of the investment banking community complained that registration statements were examined and rejected under subjective unpublished standards.[49] Further, such standards were often not uniformly applied. A study sponsored by a group of dealers revealed that 26 national offerings had been denied registration in Wisconsin, even though most of them involved listed companies of a blue chip or nearly comparable quality. Of this sample, twenty were rejected only in Wisconsin.[50] Wisconsin broker-dealers complained to the governor and a committee was formed to improve relations between the members of the securities industry and the Department of Securities. As a result of these communications, the Department of Securities agreed to sponsor a bill which would exempt certain securities of New York Stock Exchange listed companies. Although this bill was unopposed, it was not enacted because of the crowded legislative calendar.[51]

At that time, Wisconsin was unique in failing to provide an exemption for securities listed on the New York Stock Exchange.[52] Yet the exemption bill failed passage even though it had the backing of the interested New York Stock Exchange member firms. Subsequently, after the appointment of a new Commissioner in 1967, a study committee was formed and, approximately eighteen months later, after extensive consideration and drafting, a revised securities law was enacted. The securities industry was represented on that committee by members of large investment banking firms which, for reasons already stated, probably would be uninterested in liberalizing the law for new and speculative first issues. In any event, representatives of the industry constituted only four of the fifteen members of the committee.

49. *Id.* at 230.
50. *Id.*
51. *Id.* at 231.
52. *See* Stock Exchange Exemption Chart, 1 BLUE SKY L. REP. 851-58 (1970).

Economists trained in the kind of analysis previously suggested were not represented on the committee.

While the finished product is called the "Wisconsin Uniform Securities Law,"[53] the use of the word "uniform" is not entirely accurate. The draftsmen of the new Wisconsin law departed from the Uniform Securities Act in many respects. One of the most significant areas of difference is the retention of the fair and equitable standards in the new law.[54] Not only does this retention add to the lack of uniformity, but it continues much of the uncertainty which previously existed with respect to whether an issue would qualify under this standard of the Wisconsin law. Furthermore, it fails to recognize the needs of businessmen to capitalize their new ventures in the marketplace for public capital.[55] The present Wisconsin Commissioner is a knowledgeable and responsible administrator, and he has published rules which attempt to define "fair" and "equitable."[56] It can be anticipated that he will cause the standard to be administered in an evenhanded manner. But the writer has never seen a rule which provides a satisfactory all-inclusive definition of those words for the purpose of the regulation of securities. Moreover, a statute cannot be drafted based upon the enlightened administration of a particular commissioner, since another administrator is always just around the corner. Finally, the regulation should not be so oppressive that new promotions are cut off from the supply of public capital. Definite standards which have a sound relation to contemporary business problems are sorely needed in this area if businessmen are to be granted a reasonable opportunity to accomplish their financial plans with some certainty.

A comprehensive analysis of the new Wisconsin and California securities laws could easily be the subject of two separate articles. The few provisions of those statutes which are discussed above serve only to illustrate the direction which revision has taken recently in two important commercial states. It is submitted that while the draftsmen of those statutes did indeed effect considerable improvements over the pre-existing laws,[57] they did not in fact truly reappraise the philosophy

53. WIS. STAT. ANN. § 551.10 (Supp. 1969).

54. *Id.* § 551.28(e). In fairness, it should be pointed out that Wisconsin has adopted the registration by coordination, broker-dealer licensing and anti-fraud provisions of the Uniform Securities Act.

55. In this connection, see Mofsky, *Blue Sky Restrictions on New Business Promotions*, 1969 DUKE L.J. 273.

56. 3 BLUE SKY L. REP. ¶ 52,603 (1970).

57. Such improvements would include the broad secondary trading exemption, the stock

underlying the blue sky laws. Such an examination is necessary before any meaningful revision can be drafted and enacted. If the California and Wisconsin experiences typify the kind of reform which results when state administrators participate and help sponsor the revision, then meaningful change must come without their assistance. Such administrators are simply too wedded to the regulatory philosophy to appreciate the need to balance other interests.

IV. The Quest for Uniformity

Wisconsin is not the only state which has added a fair, just, or equitable standard to a version of the Uniform Securities Act. Similar modifications were made in the Uniform Act as adopted by Kansas, Michigan, Missouri, New Mexico, and Oregon.[58] Obviously, such tampering defeats the very purpose of the Act as well as adding to the problems of uncertainty and wide discretion associated with such vague standards.

But modification of the Uniform Act by individual state legislatures is not the only factor which has contributed to frustration in the quest for uniformity. More important are certain elements which are built into the Act itself. For example, the Act, as previously mentioned, is divided into four distinct parts which are designed specifically to stand alone or in any combination. A legislature may, for example, enact only the broker-dealer portion of the Uniform Act and a totally different statute with respect to the registration and qualification of securities or enact no statute at all dealing with registration of securities.[59] Thus the structure of the Act may work against uniformity.

Section 412(a) of the Act provides that:

> The [Administrator] may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this act, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in this act, insofar as the definitions are not inconsistent with the provisions of this act. For the purpose of rules and forms, the [Administrator] may classify securities, persons, and matters within [his] jurisdiction, and prescribe different requirements for different classes.

This extremely broad rule-making power is probably the most

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exchange exemption, and the extension of the law to cover offers, sales and purchases, and the extension of the anti-fraud provisions.

58. Kan. Stat. Ann. § 17-1260 (1964); Mich. Comp. Laws Ann. § 451.706(E) (1967); Mo. Ann. Stat. § 409.306(a)(E) (Supp. 1969-70); N.M. Stat. Ann. § 48-18-19.8 (1966); Ore. Rev. Stat. § 59.095(3) (1967).

59. *E.g.*, Nevada and New Jersey.

significant factor operating against uniformity. This fact becomes clear when the rule-making section is read together with section 306 of the Act:

> The [Administrator] may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if [he] finds (1) that the order is in the public interest and (2) that . . . (F) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts or kinds of options . . . ."

Accordingly, each administrator may by rule define "reasonable" as this word relates to promotional stock, outside investor's dilution, promoters' investment, options, and the costs of a public offering. It is not surprising to find that the regulations dealing with these matters differ markedly among those states which have adopted the Act. Thus while the statutes may be uniform, the regulations may vary greatly, and in practice the regulations have a greater impact on the qualification of securities than do the statutory provisions.[60]

But even if the statutes and the rules could be made uniform, this result does not cure the heart of the problem—the basic unreasonableness of the merit system and its serious economic consequences. In this regard, through provisions granting broad control over such matters as promoters' participation and options, the Uniform Securities Act retains the philosophy that is most in need of reappraisal and reform. In fairness to the draftsmen of the Uniform Act, it should be noted that there was no intention to re-evaluate the merit system or offer an alternative method of regulation, such as full disclosure only. This result was probably based on the fact that most of the states already had merit statutes.[61] This situation probably would have presented an insurmountable obstacle to widespread acceptance of a non-merit type Act. In fact, some authorities in the area objected to the Act on the grounds that it was not sufficiently wedded to the merit philosophy.[62]

V. FEDERAL PRE-EMPTION

Critics of the merit approach and the wide diversity among the state laws have suggested federal pre-emption of the regulation of

60. There have been attempts to achieve some uniformity in this area. For example, see the various statements of policy of the Midwestern Securities Commissioners Association. 1 BLUE SKY L. REP. ¶¶ 4722-96 (1970).

61. *See* Bloomenthal, *supra* note 21, at 1448.

62. *See, e.g.*, Jennings, *The Role of the States in Corporate Regulation and Investor Protection*, 23 LAW & CONTEMP. PROB. 193, 226 (1958).

interstate securities sales as a solution.[63] They argue that this result can be accomplished by an amendment to section 18 of the Securities Act of 1933 which provides:

> Nothing in this subchapter shall affect the jurisdiction of the securities commission (or any agency or office performing like functions) of any State or Territory of the United States, or the District of Columbia, over any security or any person.[64]

Securities regulation would not, of course, be the only commercial field where the federal government has effected pre-emption, if Congress should decide to amend section 18 in the public interest. Precedent for such pre-emption exists in several other industries. For example, railroad securities are exempt from regulation by any state or federal government agency except by the Interstate Commerce Commission.[65] The Bank Holding Company Act provides for exclusive federal control over the organization of such banking institutions.[66] The area of communications is another important field in which there has been federal pre-emption.[67]

But even if federal pre-emption were constitutionally possible, the political realities of achieving this result are extremely difficult to overcome, and the possible long-term consequences of such action are potentially more detrimental than the present state of affairs. First of all, the proponents of states rights would immediately rally in their attempt to block passage of any such bill in Washington. The strong influence of such persons in their attempt to preserve aspects of current state securities regulation has already been demonstrated.[68] Next, the significant length of time that is required eventually to enact a controversial bill may postpone any such proposal far into the future. The problems connected with passage of the proposed mutual fund legislation, which has been bogged down for over three years, illustrate this. Furthermore, the United States Securities and Exchange Commission would probably oppose such change. The SEC works closely and cooperates with the state securities commissions. To illustrate, at meetings of state organizations like the North American

63. Millonzi, *Concurrent Regulation of Interstate Securities Issues: The Need for Congressional Reappraisal*, 49 VA. L. REV. 1483 (1963); Armstrong, *The Blue Sky Laws*, 44 VA. L. REV. 713 (1958).

64. 15 U.S.C. § 77r (1964).

65. Interstate Commerce Act, 49 U.S.C. § 20a(7) (1964); Securities Act of 1933, § 3(a)(6), 15 U.S.C. § 77c(a)(6) (1964).

66. 12 U.S.C. §§ 1841-49 (Supp. IV, 1969).

67. *See, e.g.*, Weiss v. United States, 308 U.S. 321 (1939); Allen B. Du Mont Labs., Inc. v. Carroll, 184 F.2d 153, 155 (3d Cir. 1950), *cert. denied*, 340 U.S. 929 (1951).

68. *See* 5 L. LOSS, SECURITIES REGULATION 3357-58 (1969).

Securities Administrators, SEC officials participate at closed sessions in assisting state administrators to formulate policy. Through its close relationship with state administrators, SEC officials can obtain the cooperation of state regulators in taking action against certain companies or persons against whom action cannot be accomplished by the SEC itself. For example, this writer has been advised by a state administrator of two instances where the SEC informally requested and obtained an order by a state administrator suspending trading in certain securities. These situations occurred in connection with secondary transactions in the shares of two companies whose securities had reached the hands of public investors by virtue of spinoffs. The SEC staff members, feeling uncertain of their authority to take such action under the provisions of the federal securities laws, accomplished their objectives through the regulation of a state administrator who was granted broad merit type authority under his state statute.

Assuming, however, that federal pre-emption were politically feasible, it would nevertheless be difficult to predict all of the consequences. One result is clear: the SEC would be effectively granted virtual life-and-death control over the entire securities industry.[69] But would the Commission's policy become more regulatory? In this connection, those persons who favored the merit approach would flock to Washington with their complaints and their demands for stricter regulation. Congress might be asked and eventually prevailed upon to change the federal laws from full disclosure to the paternalism of merit qualification. Even if Congress did not effect such a change, the Commission would be lobbied to adopt more stringent rules, and although the Commission's staff has no power to judge the merits of a particular offering, it could make its disclosure rules so difficult to comply with that they would in practice accomplish the merit system results.[70]

It is the judgment of this writer that federal pre-emption would be a mistake. The SEC is composed of only five men appointed by the President. Often these political appointees have been persons with little or no experience in the securities industry. Additionally, it is common knowledge that the Commission's staff is subject to constant turn-over.

69. *See* Address by Louis Loss at 12, Mexico Stock Exchange, June 6, 1957.

70. Even without statutory authority, the Commission has recently released a statement of policy which is an indirect form of merit regulation. In SEC Securities Act Release No. 5049 (Feb. 19, 1970), the Commission has stated, in effect, that if the certifying independent accountant for an issuer expresses serious doubt about the company's capacity to continue as a going concern, such issuers will not be permitted to register securities for public sale.

To entrust them with total control over the country's securities industry would, at the least, pose questions to which the answers are not presently available.

VI. CONCLUSION

Some constructive recommendations can be made to generate meaningful reform of the blue sky laws within the states themselves. In this regard, it is important to separate those persons who would be in favor of revision as discussed in this article from those who would be opposed. As previously mentioned, corporate officials and businessmen associated with small firms directly affected by the blue sky laws would probably advocate reform, as would the investment bankers who underwrite such firms. These persons and firms must have substantial political muscle if they are to achieve significant results in the state capitols. Such strength can be raised only if the affected persons organize themselves into permanent groups which are adequately financed to lobby efficiently for reform. Such organizations could function with considerable strength in behalf of small businessmen and investment bankers.[71] In any event, revision sponsored by these proposed organizations would probably have less drastic potential consequences than pre-emption by the federal government.

71. An example of such reform is the 1969 amendment to the Colorado Blue Sky Law which was sponsored by a group of broker-dealers in that state. That amendment eliminated the power of the Commissioner to issue stop orders for the main substantive grounds criticized in this article against registration statements filed by eoordination. Laws 1969, H.B. No. 1127, § 1, 1 BLUE SKY L. REP. ¶ 9111 (1969).