Previously, the Court's decisions with respect to state "involvement" in the private activities of individuals and entities raised the question whether financial assistance and tax benefits provided to private parties would so clothe them with state action that discrimination by them and other conduct would be subject to constitutional constraints. Many lower courts had held state action to exist in such circumstances.[1346] However the question might have been answered under prior Court holdings, it is evident that the more recent cases would not generally support a finding of state action in these cases. In *Rendell-Baker v. Kohn*,[1347] a private school received "problem" students referred to it by public institutions, it was heavily regulated, and it received between 90 and 99% of its operating budget from public funds. In *Blum v. Yaretsky*,[1348] a nursing home had practically all of its operating and capital costs subsidized by public funds and more than 90% of its residents had their medical expenses paid from public funds; in setting reimbursement rates, the state included a formula to assure the home a profit. Nevertheless, in both cases the Court found that the entities remained private, and required plaintiffs to show that as to the complained of actions the state was involved, either through coercion or encouragement.[1349] "That programs undertaken by the State result in substantial funding of the activities of a private entity is no more per-

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[1346] On funding, *see* Simkins v. Moses H. Cone Memorial Hosp., 323 F.2d 959 (4th Cir. 1963), *cert. denied*, 376 U.S. 938 (1964); Kerr v. Enoch Pratt Free Library, 149 F.2d 212 (4th Cir.), *cert. denied*, 326 U.S. 721 (1945); Christhilf v. Annapolis Emergency Hosp. Ass'n, 496 F.2d 174 (4th Cir. 1974). *But cf.* Greco v. Orange Mem. Hosp. Corp., 513 F.2d 873 (5th Cir.), *cert. denied*, 423 U.S. 1000 (1975). On tax benefits, *see* Green v. Connally, 330 F. Supp. 1150 (D.D.C.) (three-judge court), *aff'd. sub nom.* Coit v. Green, 404 U.S. 997 (1971);McGlotten v. Connally, 338 F. Supp. 448 (D.D.C. 1972); Jackson v. Statler Foundation, 496 F.2d 623 (2d Cir. 1974). *But cf.* New York City Jaycees v. United States Jaycees, 512 F.2d 856 (2d Cir. 1976); Greenya v. George Washington Univ., 512 F.2d 556 (D.C. Cir.), *cert. denied*, 423 U.S. 995 (1975).

[1347] 457 U.S. 830 (1982).

[1348] 457 U.S. 991 (1982).

[1349] The rules developed by the Court for general business regulation are that (1) the "mere fact that a business is subject to state regulation does not by itself convert its action into that of the State for purposes of the Fourteenth Amendment," Blum v. Yaretsky, 457 U.S. 991, 1004 (1982) *quoting* Jackson v. Metropolitan Edison Co., 419 U.S. 345, 350 (1974); *Cf.* Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972), and (2) "a State normally can be held responsible for a private decision only when it has exercised coercive power or has provided such significant encouragement, either overt or covert, that the choice must be deemed to be that of the State." Blum v. Yaretsky, 457 U.S. 991, 1004 (1982). To the latter point, see Flagg Bros. v. Brooks, 436 U.S. 149, 166 (1978); Jackson v. Metropolitan Edison Co., 419 U.S. 345, 357 (1974).