

Approved March 19, 1990  
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Sen. Don Montgomery at  
Chairperson

9:00 a.m./~~p.m.~~ on March 15, 1990 in room 531-N of the Capitol.

All members were present except:

Sen. Allen - Excused

Committee staff present:

Mike Heim, Legislative Research  
Theresa Kiernan, Revisor of Statutes  
Shirely Higgins, Committee Secretary

Conferees appearing before the committee:

John Torbert, Kansas Association of Counties  
Gerry Ray, Johnson County  
Willie Martin, Sedgwick County  
Linton Bartlett, City of Kansas City, Kansas  
Ernie Mosher, League of Kansas Municipalities

The hearing began on SCR 1639, a proposition to amend article 2 of the Constitution of the State of Kansas by adding a new section thereto, requiring an election prior to the enforcement of certain enactments of the legislature. John Torbert, Kansas Association of Counties was first to testify in support. (See Attachment I).

The Chairman asked if Mr. Torbert's statistics of Kansas being 19th on property taxes was prior to reappraisal, and Mr. Torbert acknowledged that it was. The Chairman also asked why 3/4 vote was used instead of the usual 2/3. Mr. Torbert explained that this was what was used in the Florida amendment.

Sen. Frahm asked if Mr. Torbert had a list of mandates that have been handed to local governments and whether the mandates had state funding. Mr. Torbert said he could have provided such a list but had felt that this legislation does not deal with the past and so he chose to look at the future. He added that he is not opposed to all mandates but is focusing on such things as exemptions on tax lids where local governments feel they do not have control over the costs. Mr. Torbert also confirmed that SCR 1639 does not give a guarantee for future funding. Sen. Gaines began a discussion about the effect of tax exemptions on local governments. Mr. Torbert concluded that it is not his purpose to blame but to investigate the cause for local governments in Kansas being ranked above average in local taxation. Sen. Daniels noted that some mandates are not from the state but from the federal government and asked Mr. Torbert if he could compile a list of mandates on local governments indicating if they were initiated from the federal government.

Gerry Ray, Johnson County, testified further in support of SCR 1639. (See Attachment II). A discussion followed regarding which mandates are passed down to counties and the effects. Ms. Ray made a point to clarify that she was in no way wanting to place blame for local government's financial difficulties on the state.

Willie Martin, Sedgwick County, followed with testimony in support of SCR 1639. (See Attachment III). Discussion followed regarding the rationale of Sedgwick County's decision to ask the legislature to carefully consider future mandates and how they will be funded. She was asked to furnish a list of mandates by the state which caused her county to come to this decision. Staff referred to a study that had been done in 1979, Policy Analysis of State Mandates on Local Governments, which could be of interest to committee members.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,

room 531-N, Statehouse, at 9:00 a.m.~~p.m.~~ on March 15, 1990.

Linton Bartlett, City of Kansas City, gave further testimony in support of SCR 1639. (See Attachment IV).

Ernie Mosher, League of Kansas Municipalities, gave final testimony in support. (See Attachment V). A discussion followed regarding federal and state mandates on local governments and the funding of those mandates. It was determined that 32 states have continuing advisory commissions on mandates to local governments. Ms. Martin stated that the intent of SCR 1639 was not to point out blame but rather as a way to allow the state and local governments to work together more closely. With this, the hearing was concluded.

The minutes of March 14 were approved.

The meeting was adjourned at 10:00 a.m.





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212 S.W. 7th Street  
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(913) 233-2271  
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John T. Torbert

March 15, 1990

**TESTIMONY**

**To: Senate Local Government Committee**

**From: John T. Torbert  
Executive Director**

**Subject: S.C.R. 1639 (Mandate Relief Act)**

The Kansas Association of Counties appears in support of S.C.R. 1639. It has been designated by our county membership and governing board as our association's number one legislative priority.

Our convention adopted policy statement is as follows: "Out of a sense of fiscal fair play and truth in taxation, a constitutional amendment is needed to give local governments relief from mandates. Such an amendment would specify that any new law or regulation that required additional expenditures by local government (either in terms of human or monetary resources) would have to be matched with additional state funding or increased fiscal capacity for local government."

This is a time of fiscal stress for all levels of government. The state revenue picture is considerably tighter than it has been in some time. At the local level, dissatisfaction about the property tax system has been vocalized and in some areas of the state, has been intense. Because of the spotlight on taxes this year, we've been told by some legislators that this is the wrong time for this legislation and that it ought to be looked at when the tax atmosphere is somewhat more serene. I would submit that the current environment is exactly the right time for this discussion. If you subscribe to the theory that property taxes are too high, then you must also look to the causes. If there is a positive to come from the whole discussion on local taxes, it may be the realization by the citizens and the legislators that represent them that the property tax is simply being asked to do too much. One big reason this has occurred is state mandated functions.

*Senate Local Gov't  
3-15-90  
Attachment I*

There have been two national studies released recently about state and local taxation. The studies were done by the U.S. Advisory Commission on Intergovernmental Relations (ACIR) and the U.S. General Accounting Office. Both come to the same general conclusions about the state of Kansas. First of all, we are a high property tax state. Certainly, we are not the highest by any stretch of the imagination but we are above the national average. The most recent ACIR study ranked us at 19th. Interestingly though, when ACIR looked at total state and local tax burden, Kansas was below the average, ranking 33rd. The obvious conclusion is that while property taxes are somewhat higher than the average, our other taxes such as sales and income are lower than the national average.

The ACIR study also bore this out noting that on a per capita basis, local government in Kansas spent more on direct services than the national average. Conversely, state government tended to spend less on services per capita than the national average.

The GAO study reached a similar conclusion. Kansas local governments finance a greater portion of public services than do local governments in other states. For non-education services, the national average of local financing was 30%. In Kansas it was 49%-an amount exceeded by only two states. If you look at who delivers governmental services, nationally, the average is that 45% of all governmental services will be locally delivered. In Kansas, it is 56%. Finally, what share of local services are locally financed? The national average is 67%. In Kansas, the amount is 88%.

So, the bottom line is that Kansas is a high property tax state. But, the sales and income taxes are below average. The state is collecting less than the national average and, by no coincidence, putting more responsibility at the local level for provision of service. Local governments in Kansas do more than local governments in other states. Not surprisingly, that costs more. These independent national studies I think confirm that mandates are an issue whose time is right now.

So, what do we do about it? We did a great deal of research in trying to arrive at a proposal that we could put before you for your consideration. Steven Gold of the "National Conference of State Legislatures" noted in an article published last December that there are four broad categories of policy that NCSL recommends in dealing with mandates. They are;

- 1) Policies that raise the consciousness of state officials about the costs of mandates such as fiscal note requirements.
- 2) Policies that reimburse localities for new state mandates.
- 3) Policies that say that localities need not conform to mandates unless the state provides funding for them.
- 4) Policies that review existing mandates.

The NCSL article concluded with the following statement; "A proposed constitutional amendment approved for submission to the voters by the Florida legislature in 1989 incorporates a number of interesting approaches to controlling mandates. It significantly restricts the state's ability to impose unfunded mandates but it has considerable flexibility rather than resorting to a blanket prohibition."

The more people that I talked to from a variety of national organizations, the more I heard about the "Florida approach." The National Association of Counties tells me that there are now 17 states (18 as of today) that either have legislation modeled after the Florida approach or are considering such legislation. The amendment that you have before you is based on the Florida model.

The language of the amendment is somewhat ponderous and a bit difficult to wade through. The effect is fairly simple though. A city or county would not have to follow a state law requiring the expenditure of funds unless the legislature determines that the law fulfills an important state interest and unless it either 1) Appropriates the dollars needed to fund the expenditure 2) Authorizes a local funding source 3) Approves the mandate by a 3/4 majority vote or, 4) The new mandate was necessary because of federal requirements or entitlements.

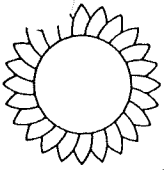
Section three of the amendment provides that the "percentage of state tax shared with cities and counties as an aggregate" could not be reduced after July 1, 1990 unless it were done by a 3/4 majority vote. Lines 9-27 on page 2 are where your loopholes are provided.

We think that this approach is fair and provides a very good balance. It does provide local government and the local taxpayer with additional protection. But, the protections afforded are not so strict or "iron-clad" that the legislature would be prohibited from imposing a mandate if it felt it was absolutely essential to do so.

This approach meets all of NCSL's criteria. It does raise the consciousness of state and local officials about mandates. It does provide state mandate reimbursement as an option. It does give localities an out from conforming to mandates unless certain conditions are met. And, it does provide a guaranteed review of proposed mandates. It does not deal with existing mandates although the thought of doing so was very tempting.

We think the time is right that the causes of local spending get as much attention as the spending itself. This is good policy for the state of Kansas, good policy for local government and most importantly, good policy for the Kansas taxpayer.

TSJMNDTE



**Johnson County  
Kansas**

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March 15, 1990

SENATE LOCAL GOVERNMENT COMMITTEE

HEARING ON SENATE CONCURRENT RESOLUTION NO. 1639

TESTIMONY OF GERRY RAY, INTERGOVERNMENTAL COORDINATOR  
JOHNSON COUNTY BOARD OF COMMISSIONERS

Mr. Chairman, members of the committee my name is Gerry Ray representing the Johnson County Board of Commissioners.

Johnson County strongly supports Senate Concurrent Resolution No. 1639 setting certain limitations and guidelines on state mandates for local governments.

For many years counties have sought a solution to the problem of state mandates and how to fund them. SCR 1639 is the first concrete attempt to address the situation in a logical manner. Although we understand counties are considered an agent of the state, we have over the years felt we have moved into more of a partnership relationship, one that is dedicated to providing the necessary services to our mutual constituency. Therefore we do not deny the appropriateness of our carrying out state assignments, but in the existing environment, financing them has many times become a source of perplexity. To illustrate some of the more familiar mandates and the costs, please consider the following items in Johnson County's 1990 budget:

Judicial System	\$1.0 million
Election Office	800,000
District Attorney's Office	1.6 million
Reappraisal & Maintenance	3.5 million

The above total of \$6.9 million is only a small example of the services passed on to the county from the state. There are also areas such as Adult and Juvenile Detention Centers, Community Corrections, Motor Vehicle Licensing, etc.

Although we have been able to manage the funding of the multi services in the past, with the cuts in federal and state resources, it has become more and more difficult to continue to do so. Therefore, we believe that legislation such as that before you is necessary to guarantee that an adequate level of funding is maintained to carry out the intent of the state and local levels of government.

The Johnson County Commission urges this committee to pass SCR 1639 out favorably for passage.

*Senate Local Gov't  
3-15-90  
Attachment II*



SEDGWICK COUNTY, KANSAS

INTERGOVERNMENTAL COORDINATOR

WILLIE MARTIN

COUNTY COURTHOUSE • SUITE 315 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7552

To: Senate Local Government  
From: Willie Martin  
Date: March 15, 1990  
Subject: SCR 1639

Mr. Chairman and members of the Committee I am Willie Martin, representing the Sedgwick County Board of Commissioners. I appreciate this opportunity to speak in support of SCR 1639.

Sedgwick County has faced multiple mandated projects: the Sedgwick County Adult Local Detention Facility, the Work Release Facility, and Reappraisal. These new mandates as well as existing functions which are statutorily required, demand prudent financial management.

The 1990 budget for Sedgwick County is \$57,754,577, of this total \$36,155,819 is for functions which are statutorily required. I would like to list just a few of those:

18th Judicial District	1,816,081
Detention Facility Operations	4,881,343
Youth Residence Hall	1,546,163
Reappraisal	1,684,954
Physically Disabled Svcs.	585,137
Mental Retardation	2,739,633
Special Alcohol/Drugs	111,005
Mental Health	5,263,494
Sheriff	6,006,724
Community College Tuition	1,111,047
Detention Construction (Debt Svc)	2,000,000

We oppose the imposition of additional state-mandated functions or activities on local governments. Any function or activity deemed of sufficient statewide concern or priority to justify its required local performance should demand designated funding.

Senate Local Gov't  
3-15-90  
Attachment III



Sedgwick County supports meaningful State assistance to local governments through increased revenue sharing, particularly in support of human services. Mandated costs and services should be re-evaluated to determine if these burdens can be reduced or eliminated. Any new state-mandated costs or programs should not be imposed on local governments without corresponding financing or a designated methods or means to pay for such costs.

Counties and cities should be empowered with the flexibility to implement and develop new sources of income. As a result of reappraisal, dependency on the property tax has become an even more important issue for all governments in the State of Kansas. Local government has a responsibility to effectively control the local mill levy. To accomplish this it is essential that the legislature carefully consider any future mandates and just as carefully consider how they will be funded.

ISSUE #14:

**State Mandated Functions**

SUMMARY:

For almost twenty years, states have implemented policies and programs directed toward one of the most troublesome state-local fiscal issues: state mandates. Over half of the states have undertaken study and cataloguing efforts, nearly four-fifths have adopted the practice of attaching "fiscal notes" to bills (and in some cases administrative rules) and at least one-fourth have adopted constitutional or statutory provisions addressing the reimbursement of state mandates.

Few issues cause more concern among local government officials than state mandates because these mandates impose restrictions on local autonomy and budgets. An example would be the care of abandoned cemeteries that the State Legislature mandated to the City of Kansas City, Kansas, without providing any funding. The cost to Kansas City, Kansas, was considerable, particularly the first year.

In 1983, the City of Kansas City, Kansas, introduced a bill requiring a state mandate cost law requiring the State to provide funds for any state mandated function. We had a hearing on the bill and we were supported by the League of Kansas Municipalities, the Kansas Association of Counties, and others. The bill died in committee. Although there appears to be little support for the measure at this time, cities like Kansas City, Kansas, must remain vigilant and communicate effectively to the Legislature the financial impact of legislation on local governments.

We oppose any state mandated function or activity unless it is financed from state funding sources or from non-property tax sources. Further, we support increased state-local revenue sharing to reimburse local units for presently mandated costs.

ACTION & COMMENTS:

Monitor all legislation closely, especially for local government impact



**League  
of Kansas  
Municipalities**

**Municipal  
Legislative  
Testimony**

An Instrumentality of Its Member Cities. 112 West Seventh Street, Topeka, Kansas 66603 913-354-9565 Fax 354-4186

To: Senate Committee on Local Government  
From: E.A. Mosher, Executive Director  
Re: SCR 1639--Constitutional Amendments on Local Government Mandates  
Date: March 15, 1990

On behalf of the League and its member cities, I appear in general support of SCR 1639. The League's convention-adopted Statement of Municipal Policy provides as follows:

"We oppose the imposition of additional state-mandated functions or activities on local governments. Any function or activity deemed of sufficient statewide concern or priority to justify its required local performance should be financed by the state. Increased state-local revenue sharing is needed to reimburse local units for presently mandated costs."

In addition, our policy statement requests legislative establishment of an intergovernmental relations advisory commission, one function of which would be to review all state mandated programs and expenditures.

In my opinion, the Kansas Legislature has been reasonably cautious in voting local government mandates, perhaps more so for cities than for counties and school districts. From the perspective of cities, some of the most expensive mandates are in the environmental area, particularly as to water and sewerage service, frequently implemented by administrative rule and regulation, not by statute, and sometimes propelled by federal mandates.

The League's sensitivity to mandates extends back for many years. The League sponsored the legislation which now requires fiscal notes to be prepared on the impact of bills affecting local governments, and also supported the fiscal impact report requirement on state administrative rules and regulations.

Our increasing concern with potential future state mandates is influenced by the predictable state and local fiscal problems we face in the future, as well as changes in the federal system. Pressures to hold down the cost of Kansas state government may encourage attempts to shift to local governments more financial responsibilities, but less resources. The new state highway enhancement program, involving local contributions for state highway projects, is an example of this trend, although admittedly permissive and not mandated. On the federal level, we are increasingly seeing Congress use the "stick", instead of the "carrot", with the probability that federal deficit and tax level concerns may result in shifting more financial obligations to states, and in turn to local governments.

I do not have great confidence that a resolution like SCR 1639 is likely to receive a two-thirds vote of the legislature; the probability of a favorable report from the Senate Ways and Means Committee appears unlikely. Absent action on a constitutional proposal, we would reaffirm our support for an advisory commission on intergovernmental relations. At the same time, we suggest that an effective commission requires the strong support of the executive branch, as well as the legislature.

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Senate Local Gov't  
3-15-90 Attachment IV