

# MAINE STATE LEGISLATURE

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State Mandates

A Report of the Joint Standing  
Committee on State & Local  
Government

December 1987

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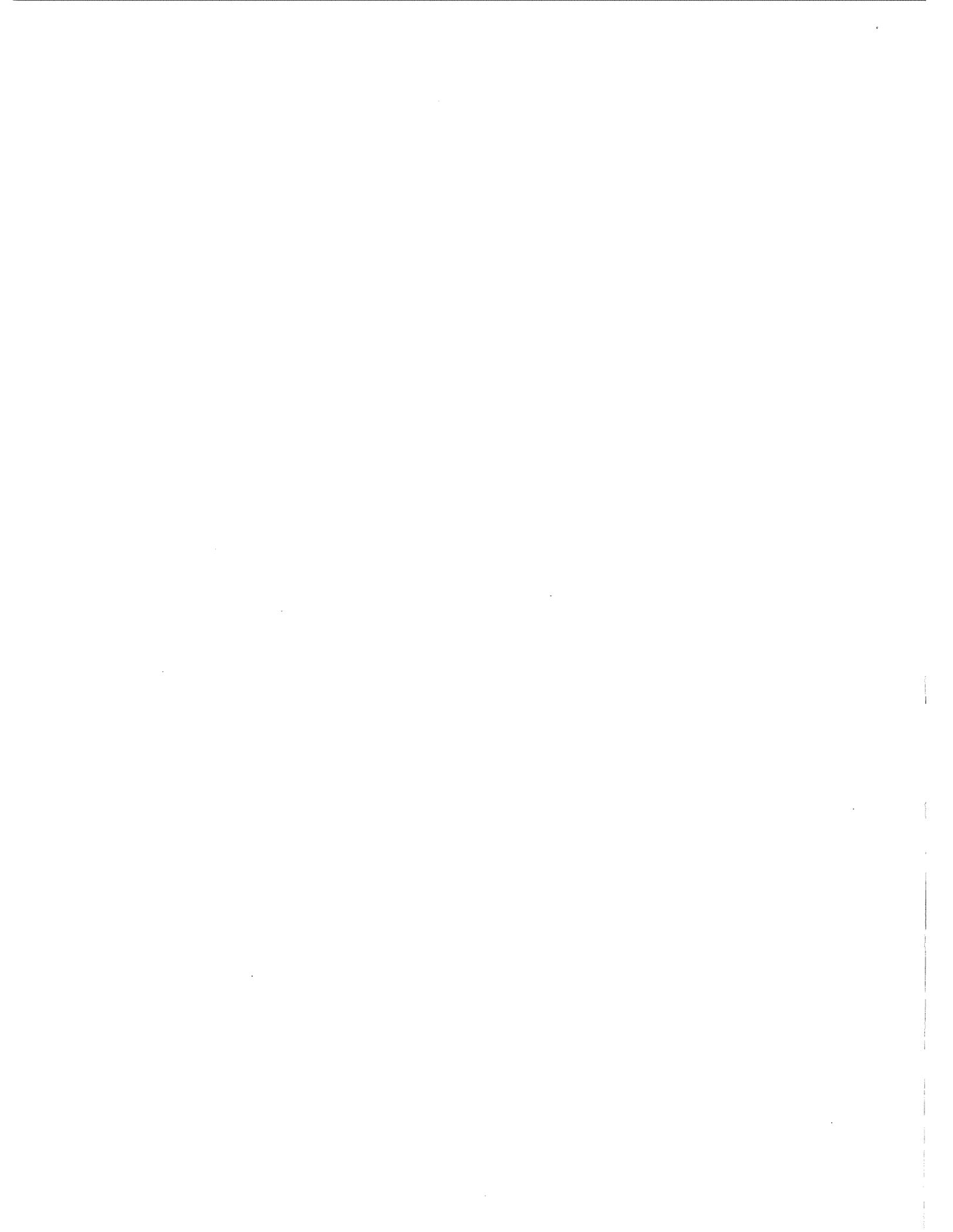
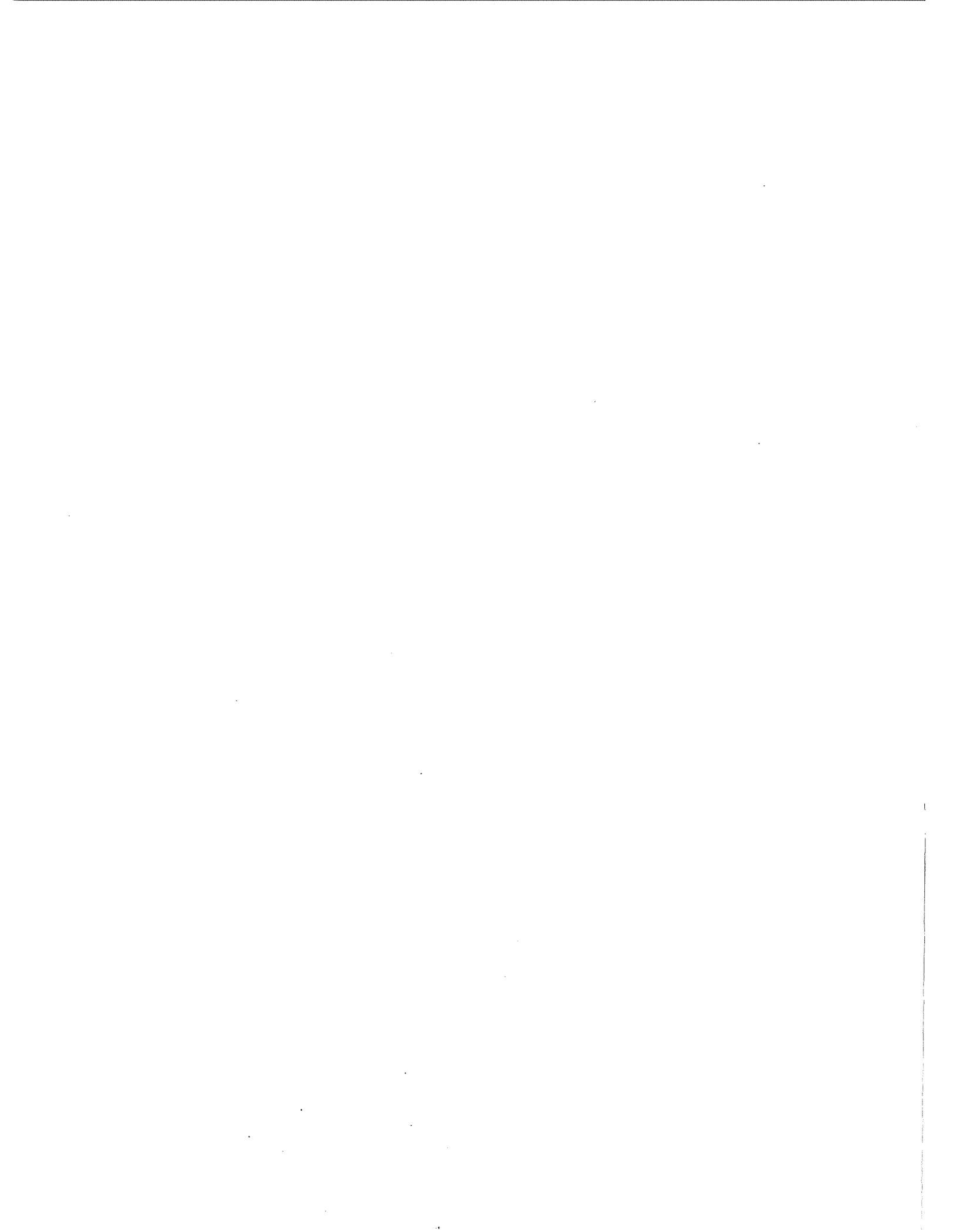


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## BACKGROUND



## Background

### I. Proposed Legislation and Study Order

On June 5, 1987 the Committee on State and Local Government made a request of the Legislative Council to study reimbursement to political subdivisions for costs incurred to implement State mandated programs and agency rules. This request was an outgrowth of "An Act Requiring Funding of State Mandated Programs," LD 1078, April 2, 1987, which was carried over. Two other directly related bills came before the Committee. "Resolution, Proposing an Amendment to the Constitution of Maine to Require that Local Units of Government be Reimbursed for Costs Incurred in Executing State Mandated Programs," LD 618, February 20, 1985 was carried over to the second session. In that session it was redrafted and became LD 2143 "An Act Requiring Fiscal Impact Statements Describing the Cost and Benefits Associated with Each Legislative Document and Agency Rule that Affect Political Subdivisions of the State." This bill was indefinitely postponed. LD 1149, May 4, 1987 was introduced with the same title and was carried over.

The second directly related bill was LD 498, April 1, 1987, "An Act to Require Reimbursement to the Counties when County Funds are Expended." This bill was also carried over. Finally, "An Act to Require Full State Funding of any Legislative Mandate," LD 1178, April 9, 1987 came before the Committee on Appropriations and Financial Affairs. In spite of its title, it was specific to the issue of mandated new educational programs. It was carried over by that Committee.

In addition to recent bills related to this study, the Committee, thru researching the legislative history of mandates back to 1975, became aware of the following earlier proposed legislation on this subject.

LD 1350 March 20, 1979 "AN ACT to Create a Special Commission on State Mandates Imposed on Local Units". Indefinitely Postponed. The Commission was to review all mandate programs to find if they set forth a clear policy, required a consistent course of action, were simple to comply with, took into account local situations and were necessary. The Commission was to have a budget of \$20,000.

LD 1546 March 28, 1979, "AN ACT to Require the State to Partially Reimburse Municipalities for Functions which the State Requires of Municipalities". Ought to Pass, Recommended, Leave to Withdraw.

LD 523 March 18, 1981 & LD 458 February 1, 1983, "AN ACT to Prohibit State Mandates and Tax Shifts". Both Leave to Withdraw.

The Legislative Council approved the request of the State and Local Government Committee for a study of mandated

reimbursement. The study was to be conducted by a subcommittee of 5 members which was granted 3 meetings. In addition, one meeting was allowed for presentation of recommendations to the full Committee. Any legislation was to be submitted by December 4, 1987.

In determining its recommendations, the Subcommittee (in the future to be called the Committee) was directed to conduct the following research:

1. Develop data on the trend of local property taxes and the factors contributing to this trend.
2. Develop a catalog with costs of laws and rules enacted during one legislative session which imposed costs on local government.
3. Review laws and procedures in other states to address this issue.

The Bureau of Taxation and the State Auditor were directed to assist in obtaining the data relative to the above research and all agencies were required to provide the information relative to their rules.

## II. Current Legislation & Rules

There are currently in law three provisions which deal with the subject of mandated costs. Article 4, part 3, section 23 of the Constitution requires that each municipality be reimbursed for not less than 50% of property tax revenue loss due to statutory property tax exemptions or credits. There is currently only 1 such law. It deals with veterans rights and resulted in a reimbursement to municipalities of about \$250,000 last year.

Title 3, section 103-A, subsection 12 requires the legislative staff to prepare estimates of costs that would be incurred by local governments in implementing local mandate legislation. This statement is to be made within the limits of information provided to the responsible office. In practice such estimates are seldom prepared because the Office of Fiscal and Program Review indicates that they do not receive the necessary information. Maine Municipal Association states that the required information is made available by them directly to the Committee on State and Local Government and generally results in the bill being withdrawn or changed in a way to eliminate the local costs. Those involved in this process told the Committee that they construe the statute as requiring that fiscal notes be prepared only for local mandate bills that have been favorably reported by committee. The Committee feels that this preparation is required on all mandate bills but is only made an official part of those that are favorably reported by the committee.

And, finally, Title 20-A, Section 5 requires state reimbursement for mandated new noneducational services. A brief investigation of this statute by the Committee revealed that there appear to have been few, if any, mandates of this type passed since its inception in 1984 and that it appears to be its intent that this requirement be fulfilled by the Education Finance Act. If this is true the statute could perhaps be more explicit on this point. Also, it should be noted that use of the Education Finance Act for reimbursement would not result in full compliance with the Statute, since only 55% of costs under this act are covered by the State. Another drawback to this Act is that it does not require proof of performance for most items which are considered general operating costs. However, the Committee was told that within the present education funding formula it would be very difficult to reimburse on a proof of performance basis.

In addition to the above three statutory requirements, 13 FY 85/86, as revised by 7 FY 87/88, requires that rules which will have a projected impact of more than \$1mm be accompanied by a Regulatory Impact Analysis which is to include a description of potential costs and an indication of those likely to bear those costs.

## METHODOLOGY

## Methodology

The following was the methodology for the 3 special research tasks assigned to the Committee.

I. Develop the trend of local property taxes and the factors contributing to this trend.

It was decided that this review would be most profitable if the local tax data were related to Maine state data and to local data in other states. The best source of local data that the Committee could identify is "Government Finances", United States Bureau of the Census. The latest report is for FY 1985. In order to be comparable with other states, the same source was used for Maine state data. This information was available thru FY 1986.

II. Develop a catalog with costs of laws and rules enacted during one legislative session.

The Committee chose the 112th Legislature, as being the most recent complete legislature. Maine Municipal Association volunteered to provide a catalog of the laws but was unable to provide costs. The individual departments under the coordination of the Department of Finance provided a list of rules and their costs but were also unable to provide costs for laws. This is considered a finding of this study and will be reported in that section of the report.

III. Reviewing laws and procedures in other states to address this issue.

The following general categories of sources were utilized by staff in attempting to respond to this requirement.

A. Associations - Many associations were contacted. Below is a list of those that provided the most help, together with a general description of what was provided:

1) National Conference of State Legislators - Bibliography

2) Advisory Council on Intergovernmental Relations - Several state-by-state compilations from 1978 and 1981 as well as general consultation.

3) General Accounting Office - Preliminary results of a state-by-state survey currently in progress plus general consultation.

## B. Bibliographies

1) Federal and State Mandates, B-85, September 1986, R. A. Carter, Senior Librarian, The New York State Library.

2) State Mandates, Legisnet Search, NCSL, September 18, 1986.

## C. Other State Studies

Many States have studied this subject. The following reports were reviewed by staff:

1) Fiscal Note & Reimbursement Programs for State Mandates, Ill., Nov., 1978

2) State Mandates: Background Review, PA, January, 1981

3) User's Manual to the Pennsylvania State Mandate Project, July, 1982

4) State Mandates on Local Governments and Local Financial Resources, VA, December, 1983

4) Legislative Scrutiny and the Role of Fiscal Notes on the Enactment of Statutory Mandates, FL, January, 1985

5) State Mandates: Room for Reform, N.Y., September, 1986

6) State Mandated Local Government Expenditures and Revenue Limitations in South Carolina, April, 1987

7) 1987 Report on Mandates & Measures Affecting Local Government Fiscal Capacity, FL, 1987

## D. Representatives from other States

In reviewing the combined analysis of other states' activities and the studies from other states it became apparent that there were major discrepancies between what states were required by law to do regarding mandates and what they were doing and the success they were having in doing it.

Because of this, the Committee worked with ACIR and GAO to develop a list of States to invite to address the Committee. The states were selected because of the degree and range of their experience and their proximity to Maine. Connecticut, Rhode Island, Massachusetts, New Hampshire and New York were

selected. Connecticut was unable to send a personal representative but did provide a written summary of their mandating activities.

The following persons appeared as Committee witnesses:

Paul Posner, Director  
Intergovernmental Relations  
General Accounting Office  
Washington, D.C.

Emily Lunceford, Legal Counsel  
Division of Local Mandates  
Auditor of the Commonwealth  
Commonwealth of Massachusetts

Charles Connor, Director  
Office of Legislative Budget Assistance  
New Hampshire

Paul D. Moore, Executive Director  
Commission on State-Local Relations  
State of New York; and  
Staff Chairman,  
NCSL Task Force on State-Local Relations

Richard Sylvestre  
Office of Municipal Affairs  
Department of Administration  
State of Rhode Island

CONCLUSIONS & RECOMMENDATIONS

## Conclusions & Recommendations

### I. Mandates and Mandate Programs

#### A. Conclusions

##### 1. The Impact of Mandates

a. The Committee developed no evidence that mandates represent a significant fiscal hardship and, from such evidence as was available, drew the tentative conclusion that they do not represent such a hardship.

b. There is, however, a perception on the part of some local governments, particularly those in smaller municipalities, that mandates do represent a substantial hardship.

##### 2. Objectives for a Mandate Program

There is evidence that the Maine Legislature acts with restraint concerning mandates when the fact that a mandate results in costs to local government is known but there appear to be occasions when this fact is not widely known.

##### 3. The Practical Results of a Mandate Program

###### a. Accomplishments

(1) There is fairly strong evidence to suggest that a program of mandate reimbursement may not result in actual reimbursement.

(2) There is somewhat less evidence to suggest that reimbursement and fiscal notes for mandates do not produce observable additional fiscal restraint but merely create awareness of the problem and dialogue involving it.

(3) There is a minority viewpoint that says that reimbursement and fiscal notes do not even accomplish an awareness that has any significant impact.

###### b. Cost

The cost of administering a mandate program combining a fiscal note and reimbursement could run in the neighborhood of \$700,000 per year and a fiscal note program alone about \$300,000.

#### 4. Current Mandate Legislation

The Office of Fiscal and Program Review is currently required to prepare fiscal notes on mandate bills when information is provided to them. Maine Municipal Association indicates that they will have a municipal government fiscal data base functioning within 6 months. This data base may increase their ability to provide cost data to the Fiscal Office.

#### B. Recommendations

The State should take steps that will make the Legislature fully aware when a mandate will result in a cost to local governments and should conduct its mandate activities in such a fashion as to satisfy local governments that the consequences of a mandate are known and that the mandate process results in the availability and consideration of all the available evidence before the mandate is passed.

There appear to be better and less expensive ways of accomplishing these awareness and discussion objectives for a mandate program than the obvious solutions of reimbursement and state originated fiscal notes and the Committee recommends against a mandate reimbursement program or fiscal notes for mandate bills. The Committee does, however, encourage local government associations to make greater use of the mandate fiscal note process currently in statute.

The remaining recommendations deal with alternatives to reimbursement and fiscal notes.

### II. Increase State Contribution to Local Governments

#### A. Conclusions

1. The Committee feels that mandates need to be dealt with within the framework of the total financial relationship between the State and local governments. In pursuit of this objective, the Committee concluded that the State financial contribution to local government is at a lesser level than it was in 1980.

2. Many states deal with the logistical difficulty of recognizing mandates directly by an indirect program of permitting alternative local funding methods or increased state aid.

## B. Recommendation

The Committee supports, in general terms, the current proposals for increasing state revenue sharing including the proposal of the Governor's Tax Policy Study Committee to increase State revenue sharing as presented to the Committee by Richard Silkman on October 21, 1987. The Committee further recommends and encourages a periodic review of the property tax burden placed on residents of the State.

## III. An Appropriations Table for Mandate Bills

### A. Conclusions

1. The Committee feels that the Legislature will act with desirable restraint relative to mandate bills if it is aware that the bill has a cost impact.
2. The Committee feels that it is desirable to have specific activities that demonstrate to the public that it is acting in a restrained fashion relative to mandate bills.

### C. Recommendation

1. The majority of the Committee feels it desirable that all mandate bills passed for engrossment be referred to the Committee on State and Local Government for review and recommendation, based on the total fiscal impact of mandate legislation for that session.
2. The Committee concurs with the provisions of LD 1651, May 21, 1987 " AN ACT to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Acceptance of Rules." that every agency of state government prepare a regulatory agenda.

The Committee recommends that, as a minimum, this agenda be provided for rules that will mandate cost-involved activities on local governments. Copies of this agenda should be provided to the appropriate local government associations and to the Committee on State & Local Government and opportunity should be provided for both these groups to present evidence and recommendations concerning these rules. This activity should precede the preparation of the rules.

#### IV. Commissions and Agencies on Intergovernmental Relations

##### A. Conclusions

1. The declining role of the federal government has created increasing burdens on local governments and an increasingly complex relationship between the state and local governments.

2. The heavy and increasing development activity in parts of Maine has placed considerable and additional pressures on local governments.

3. Both the Commission on Intergovernmental Relations, which is required by law, and the Office of Intergovernmental Affairs, which is required by executive order, have not functioned in recent years.

4. In recent years, the State has not had an agency charged with the total state/local relationship. The Committee is concerned as to whether this necessary community affairs activity will be adequately handled by the newly created Department of Economic and Community Development. This concern stems from the emphasis on development in that department and the combining of community activities with the dominant issue of State development.

##### B. Recommendations

1. The Committee supports current legislation which seeks to reactivate and fund the State's Commission on Intergovernmental Relations. Consistent with its mission, the Committee did not study in detail what would constitute an ideal intergovernmental relations commission. However, the Committee's work on mandates leads to the following suggestions for revising the current Commission statute.

a. Include representatives of the Executive Department, Municipal Advisory Council, and county government.

b. Provide at least 1 full time professional staff person.

c. As far as possible, state functions of the Commission in terms of desired and, hopefully, measurable objectives and put these functions within a time framework for accomplishment.

2. The Committee recommends the reactivation of the Office of Intergovernmental Affairs in the Governor's Office with functions as specified in 5 FY 83/84:

The staff for such an office would include a director, one staff person, the Washington representative, the Canadian representative, and clerical support. Research functions would be provided primarily by the State Planning Office and the Departments of Finance and Administration.

#### V. Introduction of Mandate Bills

##### A. Conclusion

Having adequate time for consideration is an important aspect in the procedures for mandate bills relative to the objectives of legislative awareness and a positive perception of the process by local governments.

##### B. Recommendation

The Committee recommends that a mandate bill not be passed until at least two weeks have elapsed since its introduction unless this provision is overridden by a two-thirds vote of the Legislature.

#### VI. Legislation and Legislative Rules

The following items are being submitted in conjunction with this report.

A. An Act Concerning State Mandates to Local Governments

B. Joint Rule 5A - Mandate Legislation

SUMMARY OF FINDINGS

## Summary of Findings

### I. Do Mandates Create a Financial Burden on Local Governments?

Organization: The following is the organizational framework of this Summary of Findings:

1. The Importance of Mandates
2. Direct Reimbursement for Mandates - Need & Feasibility
3. Indirect Reimbursement through Local Sales or Income Taxes or Additional Revenue Sharing
4. Fiscal Notes
5. Procedures for Mandate Legislation
6. State Agencies or Commissions to Deal with Mandate Issues

#### A. The Direct Effect

##### 1. Actual Costs

###### a. Maine

In spite of the directive to it to do so, the Committee was unable to determine the costs of state mandates in the 112th Legislature. Results of this effort are contained in appendices B-D. From its efforts to conform with this directive the Committee concluded that the dollar amount of current mandates may not be particularly significant and that a great difficulty would be experienced in obtaining mandate costs.

In March 1986, the Maine School Management Association published the results of a survey to determine new costs that schools would face in 1986 as a result of the Education Reform Act. Their estimate was \$18mm. Interestingly, the Association was only able to obtain responses from 55% of the school districts. In December, 1986, the Commissioner's Advisory Committee on School Funding published the results of a similar survey to determine the costs of the reforms mandated by the Education Reform Act of 1984. Their estimate was for a total of \$22mm, consisting of \$11mm for additional programs and \$11mm for teachers' salaries. This study was estimated to have cost between \$12,000 and \$15,000, to have required 4 months time, and to have involved 2 professional staff people for half of their time.

###### b. Other States

The Committee is aware of only 1 state that costed out all its current mandates as part of

considering mandate legislation. A number of states developed a catalog of mandates without costs. Most of these took place in the early part of this decade. Six to nine months time of 1 to 3 staff people were required to do this and costs in then current dollars ranged from \$6,000 to \$29,000. Because of the variation in the definition of mandates there is not much to be gained from looking at the catalogs that do not provide costs. However, a brief review of the Florida catalog which did contain costs is justified for the perspective it gives to the problem of mandate reimbursement.

During the period 1981-1984, Florida had 69 mandates which involved a local cost and 26 which restricted local revenue. In spite of Florida's fiscal note and reimbursement laws, 78% of these mandates were enacted with unknown costs. The total cost involved for those mandates whose costs were known was \$7.5mm. On the other hand, a 1987 report concluded that mandate bills passed in 1987 will have negligible fiscal impact.

Two states which appeared before the Committee gave the following brief reports on the extent of their reimbursement program.

Massachusetts reports that they currently reimburse for 15 mandates and that \$2.7 mm were reimbursed during fiscal 1986. Reimbursement for a number of other mandates is pending in the courts.

Since the inception of the program in Rhode Island in 1981, 24 mandates have been approved for reimbursement. Of the 12 for which there has been sufficient time to develop a track record, actual requests for reimbursement are received on only 8. The total reimbursement last year amounted to \$100,000. The cost of administering the program is estimated at \$40,000-\$50,000 per year.

## 2. Attitudinal Information

The following attitudinal information was obtained relative to the question of how local governments feel about mandate legislation. Attitudes varied widely depending on the interests represented. In general, it would appear that negative attitudes exceed the extent of the actual problem.

a. Eighty-five percent of state municipal league directors in a mandate survey conducted in November 1986 by the National League of Cities stated that mandates were a significant issue.

b. A 1986 survey of the National Association of County Governments found the following percents of county budgets were attributable to mandates:

<u>% of Budget</u>	<u>% of Counties</u>	
	<u>Total U.S.</u>	<u>Maine</u>
0 - 10%	11%	20%
11 - 20	9	20
21 - 30	7	0
31 - 40	7	0
40 plus	48	50
NA	18	10

c. In a study conducted in 1986 by Central Michigan University, Maine respondents considered lack of mandate reimbursement to be the most important of 11 problems facing counties in maintaining county services. Of the other 2 New England states responding to the survey, this was not true of Massachusetts, which has reimbursement, and was true of New Hampshire, which has reimbursement but implements it indirectly.

d. A 1979 survey by ACIR indicated a dichotomy of points of view on this subject.

% Rating Constitutional Requirement for Reimbursement as Very Desirable

Governors	7%
Departments of Community Affairs	21
Legislators	9
Municipal Associations	73
Experts	29

e. In Process Study of Mandates in South Carolina

In the fall of 1986 South Carolina instituted a project similar to the one dealt with in this Maine Mandate Study but on a much larger scale. Since it is the most current state study on the subject, it is worthwhile to review in detail their procedures. This study is planned to take 15 months and consist of the following steps which will result in separate sequential reports.

1) A general report on the problem of mandates and request for approval to study the issue.

2) A report of the activities of other states.

3) A catalog of existing mandates.

a) Inventory of mandates. Identified 683 mandates.

1 part-time person, 6 months, \$3,000

b) Computerize the inventory  
1 month

c) Review of mandates by interest groups to identify the onerous ones.  
3 months total, 20 hours of the interest groups' time

4) Categorize and cross reference the remaining 50 mandates.

Total cost \$10,000-\$15,000 not counting time of regular staff. Total time about 9 months.

d) A compilation of mandate costs. 14 counties and 10 cities to be visited. \$20,000 budget. 4 months.

5) Summary and Recommendation

Cost of total project: \$35,000.

Time: 15 months

f. Capsule summary of reactions in some other states

1) Virginia - "mandates are not a substantive problem"

2) Massachusetts - According to GAO Massachusetts "funded some mandates for not much money."

3) New York

a) Director, Committee on Intergovernmental Relations. "There aren't many mandates. Mandates are a non-issue."

b) State Mandates to Counties, Aug.,  
1981

"Mandates exist and cost money but:

1) Mandates are often discussed by state and local officials but few can specify their extent or impact.

2) The majority of county officials don't think mandates are a significant issue. In most cases they would provide the mandated service without the mandate.

3) County officials can not distinguish between a voluntary and a mandated activity.

4) Some mandates are perceived as state activities, when, in fact, they are federal pass-through mandates."

Conclusion: The Committee developed a catalog of 112th session mandates but was unable to cost out this catalog within the resources available to it. In the process of this effort, however, the Committee developed no evidence that mandates are a significant problem to local governments and developed a tentative conclusion that they may not represent a problem relative to the total burdens of local governments and the total aid to them by the State.

It does appear, however, that a catalog of all mandates even without costs would be desirable and feasible. One of the major benefits would be the ability to evaluate individual mandates much as required by the failed study committee bill in 1979 (see Background) and the fact that it would be consistent with an ACIR recommendation that all mandates should be accompanied by, and consistent with, a statewide policy statement. However, at an estimated cost of some \$5,000-\$10,000, the Committee is not recommending such a catalog. Many states have found that the catalog procedure is so onerous that they never get beyond that step.

As determined by other states, one of the benefits of a catalog is elimination of obsolete mandates. The Committee attempted to attain this benefit by asking the various special interest groups to submit a list of such

mandates. The only response received was from the Maine Municipal Association who concluded that obsolete mandates did not represent a problem in Maine.

#### B. The Indirect Effect

Even had it been possible to measure the direct effect of mandates on local government, the Committee concurs with a point made by Denise Lord of the State Planning Office that a study of mandates should include a study of the total financial situation of local governments and the State before coming to a conclusion regarding state mandates.

In general, the complete analysis referred to above indicated that Maine's local governments are fiscally sound when compared with local governments in other New England states and when compared to Maine state government. The specific points supporting this point of view are as follows: (Supporting data are in appendix E)

1. Local municipalities get a greater share of their revenues from the State than is true of any New England state except Massachusetts.
2. Maine's local revenue per dollar of disposable income is lower than any New England state except Massachusetts.
3. Maine's State revenue per dollar of disposable income is higher than other New England state.
4. Only Massachusetts exceeds Maine in the percent of state expenditures going to local governments. (Connecticut is equal to Maine.)
5. As of 1985, Maine's property tax rate on single family FHA mortgaged homes was the lowest of the New England States. (Data on Vermont is not available.)

However, the analysis did conclude that the fiscal condition of Maine's local government is less strong than it was in 1980 relative to a similar analysis of the State and other New England states.

The data supporting this is as follows:

1. Analysis that would support more local revenue from other than current local sources.
  - a. Maine local taxes are increasing more rapidly than any New England state except New Hampshire.
  - b. Maine state expenditures and state taxes are increasing less rapidly than any other New England state.

c. The State's share of local revenues is decreasing on an absolute basis and compared to all but 1 New England state.

d. The growth of federal revenue to the state in Maine is much greater than any other New England state and much greater than the growth of federal revenues to local governments in Maine.

e. Maine's local per capita revenue per dollar of income is increasing more rapidly than any other New England state.

2. Analysis which tends not to support more revenue sharing.

a. In Maine, state taxes are increasing more rapidly than local taxes. However, this is true of all other New England states except one.

b. The change in Maine's local tax base thru 1985 generally kept pace with the change in local expenditures. However, the average municipal mill rate declined during that period.

The Committee felt on safer ground comparing Maine 1980 with Maine 1986 than it did in comparing Maine with other New England states. Therefore, it was concluded that a search for additional revenue for local governments is justified. Various existing studies on mandating suggest that this search might well include local sales or income taxes, increased local user fees and increased revenue sharing. Also, since a total state analysis, such as the one performed, may hide significant regional differences and, since over half the sponsors of the bills which lead up to this study were from southern Maine, it is felt that such a study should include a review of the procedures for determining the allotment of current state aid among the various sections of the State.

II. What are some possible solutions to the Problem of Mandates?

Although unable to place specific costs on the mandate issue, the Committee developed the tentative conclusion that the problem of mandates is more perceived than real. However, the Committee feels that a perceived problem is still a problem, merely one that must be dealt with in a different way. This section will explore ways of dealing with the mandate problem.

A. Prohibit State Mandates

The Committee developed no information that would indicate that this is a viable option.

B. Require Reimbursement for State Mandates

Initially, it should be noted that the term reimbursement is technically too limited. A number of states which had a "reimbursement" program actually compensate local governments before expenditure takes place.

1. Philosophically

The Committee developed little information in opposition to the idea of reimbursement for, at least, some state mandates. The only negative view was posed by three of the states that appeared before the Committee. They expressed surprise that a legislative committee would be considering this issue, since passage of mandate reimbursement could impair a legislature's ability to require implementation of important policies and procedures on a uniform state wide basis.

Aside from local government interest groups, the leading proponent of reimbursement appears to be ACIR. ACIR's recommended overall objective for a mandate program is deliberate restraint and in a 1982 publication, which they still apparently stand behind, they recommend one or more of the following components for a restraint policy:

- a. An inventory of existing mandates to ascertain whether they meet a statewide interest.
- b. A review procedure for weeding out unnecessary mandates.
- c. A statewide policy objective statement to accompany all proposed state mandates.
- d. Full state reimbursement for state mandates if state-imposed tax lids seriously constrict local revenue raising ability.
- e. A partial reimbursement procedure to compensate local governments for those state mandates that prescribe program enhancement in areas of benefit "spillovers" -- education, highways, health, hospitals and welfare.
- f. Full state reimbursement for mandates affecting local employee retirement benefits.

g. Full state reimbursement to minimize state intrusion into matters of essentially local concern -- employee compensation, hours, and working conditions.

2. Logistically

The testimony developed by the Committee indicated that there are major problems with implementing a mandate reimbursement program. The problems are:

a. The Committee experienced an inability to develop costs for mandates from the 112th Legislature. This has two implications:

1) The Committee was unable to obtain an estimate of the liability they would be incurring by requiring mandate reimbursement.

2) The unsuccessful efforts on 112th session mandates made it very apparent to the Committee that similar problems of estimation could be encountered in an ongoing reimbursement program.

b. The Committee received two estimates for administering such a program. For legislation, not rules, the State Auditor gave a range of \$200,000 - \$600,000 with a "best guess" of about \$400,000 including salaries for 12 - 14 new positions. The Department of Finance gave an estimate of a \$480,000 start-up cost and \$400,000 per year on-going expense. The Office of Fiscal & Program Review felt that they would be prohibited by law from administering a reimbursement program.

c. While the committee did investigate the activities of a number of individual states, as indicated in the methodology section, for simplicity's sake this section will emphasize in the first 2 parts the findings of 2 recent multi-state studies which are the product of considerably greater resources than the Committee had available to it.

1) Review of Cost Estimating and Mandate Reimbursement Programs, U.S. General Accounting Office, 1987.

A current survey by the U.S. General Accounting Office indicates that 14 states have legislation requiring mandate reimbursement of

some sort. In only 5 of these was the legislation initiated by the legislature. In the remainder, it came from a voter initiative and taxing authority was generally given up in return for reimbursement. Fifteen states have considered and rejected the idea of reimbursement, generally based on the poor experience of other states and the remaining states have never considered the idea because they consider their total aid package to be adequate.

Based on its study, it would be the Committee's estimate that less than 1/3 of the 14 states indicating that they have a program actually have a valid, functioning reimbursement process. A Committee witness with the Office of Municipal Affairs in Rhode Island estimated that only 2 states have a true reimbursement program. The reasons offered for this discrepancy between requirement and performance are many. Among them are:

- a) The Legislature waives the requirement when it sees fit.
- b) The Legislature doesn't fund reimbursement.
- c) Funds used for reimbursement come from moneys which would have gone to local governments under a different guise. There is no net increase.
- d) Local governments fail to submit requests for reimbursement.
- e) The requirement is filled thru indirect reimbursement.

Finally in terms of outcome, the GAO study investigated in depth 6 states with a mandate requirement. They found that 3 said that it had no impact, two said that it resulted in a modification of the mandates, and only 1 said that it resulted in reimbursement.

2) State Mandated Local Government Expenditures and Revenue Limitations in South Carolina. The South Carolina Advisory Commission on Intergovernmental Relations, April, 1987

As one part of a 5 part study on the issue of mandates the South Carolina ACIR overiewed the activites of all other states. Their results regarding reimbursement are summarized as follows:

"The experience of the 15 states that have constitutional amendments on mandate costs suggests that the constitutional amendment approach is only effective when the legislative commitment to the amendment remains strong through changing membership. Many states which have chosen to restrict mandating through a constitutional amendment report routine circumvention of the intent of the amendment."

South Carolina supports the following points, originally proposed in 1978 by Illinois, for a reimbursement program if one is adopted.

- a) Mandates must be clearly identified.
- b) Should include increased service mandates along with new service mandates.
- c) Should include legislative and administrative regulations.
- d) Should also apply to revenue raising restrictions.
- e) Costs must be accurately estimated.
- f) A systematic and complete reimbursement process must be created, including a means of appeal.

The concluding comment from Dan McKay of the South Carolina ACIR was that if his state adopts a reimbursement requirement, he doesn't expect a lot of reimbursement.

3) Fiscal Notes and Mandate Reimbursement in the 50 States - C H. Lovell & H. R. Egan, Public Budgeting & Finance, Autumn 1983

"In three of the eight states where mandate reimbursement legislation has been enacted, implementation has been slow, ill-defined and inadequate. In the other

five, either (1) a partially implemented system is in effect, (2) there is a law in existence, but there has been virtually no implementation, or (3) most legislation falls into exclusionary categories."

4) Studies or Testimony From Individual States

a) Emily Lunceford, Counsel, Division of Local Mandates, Office of the Massachusetts State Auditor.

1) "The voters who initiated mandate reimbursement didn't know what they were getting into.

2) A legislature which adopts such a requirement should be completely aware of what it is getting itself into.

3) Reimbursement is a very cumbersome procedure.

4) All it generally accomplishes is to improve the quality of the debate.

5) We are now focusing on preventing mandates not reimbursing for them.

6) The Division of Local Mandates employs 29 people and has a yearly operating budget of \$800,000."

b) Richard Silvestre, Office of Municipal Affairs, Rhode Island

"Reimbursement is to some extent successful. However, Rhode Island is uniquely aided by being a small state and by having had already developed a data base of local fiscal information by virtue of having centralized all state/local fiscal relationships in one department."

The cost of administering Rhode Island's program is estimated at \$40,000 - \$50,000. It should, however, be remembered that this activity takes place in a large department which has been responsible for the total state/local fiscal relationship for many years.

c) New York - Legislative Commission on Expenditure Review; 1981

"Mandates do cost money but we don't recommend an attempt to cost them out individually. To do so would result in a mire of cost quantification and legislative intent. There are other solutions to this problem that will avoid disputes over the cost of mandated activities."

d) California - Chaptered Bill Report on Local Mandate Legislation, 1976.

California was the first state that required mandate reimbursement. In the first year of its operation there were 327 mandate bills. Twenty contained an appropriation, 12 did not deal with the issue at all and 295 contained a disclaimer which eliminated that bill from the provisions of the reimbursement legislation.

e) State Mandates Act: The First Year, Illinois Oct., 1981.

"Five years after passage of a reimbursement requirement Illinois has never paid a reimbursement to local governments. However, there is some indication that the reimbursement requirement has resulted in a decrease in mandate legislation."

Conclusion: The Committee does not recommend a direct reimbursement for state mandates. This decision is based on the following points:

1. The Committee concurs with the opinion of Denise Lord of the State Planning Office that the State does not have the data base required for mandate reimbursement and that the development and maintenance

of such a system would be very expensive. Further, a reimbursement program would be expensive to administer even with a data base.

2. Mandate reimbursement would in all probability require fiscal notes which raise their own problems, as will be discussed later.

3. Relative to the objective of financial aid, it does not appear that it should be the objective selected for a mandate program. Nor does it appear that a reimbursement law will result in actual reimbursement.

a. There is no data to indicate that mandates have a significant impact on local government. This would be particularly true if Maine were to follow the procedure in other reimbursement states of only reimbursing for mandates enacted after the date of reimbursement legislation.

b. Experience in other states indicates that reimbursement laws don't result in reimbursement.

c. ACIR recommends restraint, not aid, as the goal for a reimbursement program.

4. Relative to the two objectives of mandate reimbursement, financial aid and fiscal restraint, it would appear from other states that reimbursement doesn't achieve the former and that the latter can be achieved by means other than reimbursement.

#### C. Alternatives to Direct Reimbursement

As it heard testimony concerning the, at least, perceived problem of mandates but the difficulty of implementing a direct reimbursement program, the Committee made the decision to go beyond its immediate assignment of direct reimbursement. It then became apparent that alternatives to direct reimbursement would not meet all the objectives of a direct reimbursement program and that it would be necessary to select the desired objective for any new legislation governing mandates.

The two major objectives which posed themselves were legislative fiscal responsibility, on the one hand, and financial assistance, on the other. Based on the reasoning of the previous section, the Committee's preliminary position in looking at alternatives to direct reimbursement was that fiscal responsibility or restraint should be the objective.

1. Indirect Reimbursement

Perhaps motivated by the difficulty of implementing a direct reimbursement program, a number of studies on the subject of mandates have suggested indirect reimbursement as a means of dealing with at least one aspect of the mandating issue, i.e. financial assistance.

a. Paul Moore, Committee on Intergovernmental Relations, New York

"Because we can't determine firm costs for fiscal notes, we go to alternate funding as our response to the mandate issue."

b. Legislative Commission on Expenditure Review of the State of New York, 1981

"The Commission is formulating a policy of aid enrichment that recognizes that mandates exist, but does not attempt to cost them out individually. By enhancing aid to local governments for mandates, the Commission avoids the mire of cost quantification and legislative intent."

c. Florida ACIR Report 1987

"Further, some actions taken by the Legislature may serve to lessen the fiscal impact of newly enacted mandates. These are acts that repeal or amend previously imposed mandates or reduce costs, increase revenue or revenue generating capacity or share additional state funds with municipalities and counties. About 40% of the mandate bills enacted in 1987 contained offsetting provisions that may lessen the fiscal impact of the mandate, the majority of them involving sharing of the revenue generated by expansion of the state sales & use tax.

Alternatives suggested together; in some cases, with comments relative to their applicability to Maine, follow. When no comment is offered it signifies that the Committee felt that this particular idea went beyond its mission and resources. In general, the Committee felt that any firm conclusions regarding specific items in this section were beyond its mission and in most cases were being studied by other groups.

a) Increasing Local Revenue Capacities

1) Permit local governments to adopt alternate forms of taxation, such as an income tax or a sales tax. LD 1225, April 10, 1987, proposes this approach relative to counties. It is currently in a carry over status before the Committee on Taxation.

As of FY 85 no New England state had a local sales or income tax. Nationally, 26 states had a local sales tax and the average contribution to total revenue was 6%. Eleven states had a local income tax which also contributed an average 6% to total local revenue.

2) Permit local governments to increase user charges.

This doesn't appear to be a particularly fertile avenue for Maine, as the state already exceeds all but 1 other New England state on both education and hospital user charges.

b) Providing Additional State Aid

1) Increase revenue sharing or categorical aid. A number of states respond to the mandate issue by increases in revenue sharing. In many instances, this appears to be more of a political than a substantive response. In the first place, these states generally adopt this alternative because they cannot determine the costs of mandates. Therefore, the increased revenue sharing cannot truly compensate for mandates, since their cost is not really known. Second, it appears that often there is no real increase in revenue sharing but merely a relabeling of a portion of the money already going to local government. Even when properly done, this procedure gets into an argument as to the adequacy of revenue sharing in the state and what it is currently meant to cover.

Granted the difficulty of relating revenue sharing to mandate reimbursement and given the fact that increasing revenue sharing may not be an adequate response, the Committee concurs with the current General Accounting Office study that a difficulty of mandate reimbursement is that it does not take into account local fiscal capacity. The Committee feels that, in spite of the points made above, mandate costs should be looked at in light of the total relationship between the state and local governments. As one of the recommendations coming out of its current study, South Carolina recommends that "enhancement should be considered as an alternate to a constitutional amendment or fiscal reimbursement program if the cost of such programs are prohibitive".

A detailed analysis of state aid is contained in section I B and the supporting data in appendix E. The analysis resulted in the following conclusions:

- a) It is impossible to identify the precise impact of state mandates. The impression gained is that they are not a major element relative to total local expenditures or total state aid.
- b) Total state aid in Maine compares favorably with other New England states. However, because of the many differences between the states this is less than a perfect comparison.
- c) State aid in Maine is less than it was in 1980, the approximate time of the introduction of the first mandate bill, although the most recent trend data (1985 to 1986) shows a reversal of this trend.

Conclusion: Based on sections b and c proceeding, it would appear that a study of the adequacy of state aid to local governments, such as that included in the activities of the Governors' Tax Policy Study Group, is warranted, particularly in light of the increasing responsibilities given to local governments by federal withdrawal and by the growth in the southern part of the State. The Committee supports in general terms the proposal of the Governor's Tax Policy Study Group as provided to them by its Chairman on Oct. 21, 1987 to provide property tax relief thru increased revenue sharing.

2) Have State assume some local functions.

3) Improve Property Tax Assessment System

The Committee felt that this issue should be left to the Governor's Tax Policy Study Group.

4) Increase States' Contribution to Revenue Lost through Mandated Revenue Exemptions.

The current study in South Carolina has found that in some states mandated revenue exemptions are a greater problem than mandates which involve costs.

Currently in Maine, however, there is only one law which results in a loss in local revenue. The State's 50% contribution last year was about \$250,000.

5) Change the Formula for Targeting State Aid.

The Committee elected to leave this subject to the Special Commission to Study the Use of State Valuation in Allocation of State Funding Among Municipalities (Resolves 1987, ch 63).

6) Institute Shared Tax Programs.

7) Extend the Scope of Financial Intermediation Programs that Deal with Capital Projects.

## 2. Fiscal Notes

If the goal of new legislation affecting mandating is legislative fiscal responsibility, as opposed to financial aid, the only avenue that the Committee identified, short of actual direct reimbursement, was a requirement for fiscal notes. The previously referenced GAO study found that 36 of the 44 states responding required fiscal notes on mandated legislation.

Consideration of fiscal notes raised 2 issues:

- a. The aforementioned issue of whether fiscal restraint was an adequate goal for the mandate issue.
- b. Whether fiscal notes would in fact have the desired result.

These are the two most difficult issues with which the Committee dealt, particularly the latter. This section will concern itself with a discussion of item b, which again breaks down into 3 issues: namely, the effectiveness of the current note process, alternatives to the current note process and the cost of the process.

### a. The Effectiveness Fiscal Notes

Relative to the overall idea of fiscal notes achieving fiscal restraint, the Committee heard conflicting testimony. It ranged from "accomplishes restraint," to "creates dialogue," to "accomplishes nothing". What follows are materials from studies and committee testimony, starting with the aforementioned two current multi-state projects.

#### 1) General Accounting Office

In tentative findings of the GAO national study now in progress, their Human Resources Division came to the following conclusion in their document of May 19, 1987:

- Cost estimates made potentially useful information available. However, little use is made of this information.

- Estimates generally do not deter or modify mandates.

- If the policy goal is to deter or modify mandates, cost estimate alone is not an effective approach.

In his testimony before the Committee Paul Posner, Director of Intergovernmental Relations for GAO, stated the following:

- The benefits of fiscal notes outweigh the costs.
- However, fiscal notes don't stop mandates.
- The benefit is the awareness it creates with the legislature.'

The General Accounting Office feels that fiscal notes are most effective when there is:

- Support from the Governor
- Legislative interest
- A healthy state fiscal climate
- Use by public interest groups

## 2) South Carolina

"Fiscal noting, usually accompanies any reimbursement or full funding constitutional amendment. It also exists in many states where there is no commitment to full or partial funding. A fiscal note statute ensures that each mandate will be accompanied by an economic impact statement that estimates the cost of the mandate to the locality. The problems with fiscal noting are fairly obvious. There are few guarantees that information for the note will be prepared by a disinterested party, that the one who prepares the note will have sufficient expertise and resources to accurately estimate costs, that there exists enough information for an accurate cost estimation, and that the legislature will consider the cost to localities and feel obligated to mitigate it when the mandates bill is before them. Most states which have a fiscal noting statute report that, in practice, fiscal noting rarely accomplishes the intent of the statute."

## 3) New York

a) Legislative Commission on Expenditure Review, 1981

"Fiscal noting for mandates has also been considered, but there is little reason to expect that it will be any more successful than other states' experiences with fiscal noting."

b) Paul Moore, Commission on Intergovernmental Relations

"The theoretical answer to the desirable goal of reducing the number of mandates is fiscal notes. However, it is impossible to determine the costs to put on these notes."

4) Richard Silvestre, Division of Local Government Assistance, Rhode Island

"I believe fiscal notes have been effective, but I don't know how to measure their effect. I believe the fact that the State only has to reimburse \$100,000 for mandates may be due to the restraining factor of fiscal notes."

5) Fiscal Notes & Mandate Reimbursement in the 50 States, C.H. Lowell & H.R. Egan 1983

Through interviews conducted in 1981 with state officials responsible for the fiscal note process and with state organizations of cities and counties the following conclusions were arrived at:

"The fiscal note process, regardless of form, is perceived as effective in determining or mitigating the impact of mandates. Even in those states with a poorly implemented process, the mere existence of a requirement for a fiscal note has significant impact on decision making."

b. An Improved Fiscal Note Process for Local Mandates

The Committee could not identify a model process for fiscal notes or a state that appears to have an unusually good process. All seem to have the problems of accuracy, lack of a firm figure and lateness. The general impression left with the Committee is that fiscal notes, in general, are an inexact science and that local fiscal notes are even more inexact.

## 1. Study of fiscal notes

There seems to be very little in the literature concerning local fiscal notes and little on the fiscal note processes, in general. The most definitive study to come to the Committee's attention appeared in the Autumn 1983 issue of Public Budgeting and Finance and was based on a December 1981 study. At that time 35 states had some local fiscal note process. Twenty seven of these states reported on the methodology that they used. The most frequently mentioned were loose sampling (10) and sampling and statistical analysis (7). Maine reported loose sampling. The author of that report made a personal evaluation of the quality of the notes and also asked state and local governments to rate the effectiveness of the notes.

The results were as follows:

Rated by:  
Author State Gov'ts Local Gov'ts

### Mandates Rated:

High	11	4	5
Medium High	1	9	2
Medium	9	13	14
Medium Low	1	0	5
Low	2	1	1

Maine received a medium rating from all rating groups. The author further performed an analysis of the relationship between method and evaluation and concluded there was a strong positive relationship between sophisticated methodology and high rating. Sophisticated sampling was defined as a formally established network of contacts in a representative sample of localities who are routinely asked to calculate fiscal impact.

## 2. Paul Moore, Commission on Intergovernmental Relations, New York

"Fiscal notes are theoretically an answer. In practice, however, you cannot determine the costs of mandates and without specific costs a fiscal note process can make it appear that the mandate problem is being addressed when in reality it is not."

### 3. Florida ACIR 1987

"Since the ACIR began cataloging mandates in 1980, it has never been possible to identify the dollar amount of the fiscal impact of each mandate. Municipalities and counties vary widely in area, population, growth rates and service provision, likewise, the impact of a mandate may vary widely by local governments."

### 4. Recommendations as to the Fiscal Note Process

The General Accounting Office had the following recommendations regarding the local fiscal note process:

- Require a firm dollar estimate and don't allow more general terms, eg. "substantial", "undetermined."
- Require that local governments be contacted on all local fiscal notes.
- Require that this contact be on the basis of a statistically based sampling of a predetermined group of local governments.
- Produce notes on only those bills for which there is a request by an interest group.
- Have fiscal note responsibility located with an agency which is independent of political pressures. GAO finds that fiscal note responsibility in the states is divided evenly between those locating it in the executive and legislative branches. The previously referenced study in Public Budgeting and Finance found that 1/3 of the notes were prepared by the executive branch and 2/3 by the legislative branch. No relationship was found between the quality of the note and the location of its preparation.

The following are some of the more interesting requirements imposed on the fiscal note process in individual states.

- Require prefiling of mandate legislation.
- Having all mandates go to an appropriation table. (Connecticut has this process in theory but it is not followed in practice.)
- Require the person preparing the fiscal note to be present at the hearing to give testimony on the note.
- If a fiscal note procedure is adopted for laws, departments should be required to include projected costs in rules submitted under the Administrative Procedures Act. (Rhode Island feels that rule mandates result in more cost than legislative mandates.)
- Require dollar cost estimates and prohibit inexact phrases such as "substantial." (The Committee is not aware of any state that requires this by law but Rhode Island has it as a departmental discipline and reports it as being quite successful.)

#### c) The Cost of Local Fiscal Notes

The Office of Fiscal and Program Review stated to the Committee that the fiscal note accompanying LD 1149 dated 4/28/87 represents the cost of a fiscal note program of any type for which they must develop the data. The note for LD 1149 shows a first year cost of \$309,000 and a second year cost of \$212,000.

Maine Municipal Association stated that they can not recommend that the state expend some \$300,000 per year on a fiscal note process that might be of use on as few as 5 bills per year. MMA expects to have a municipal data bank in place in 6 months. They state that with this capability they will utilize present statutory procedures by presenting costs to the Office of Fiscal and Program Review. They suggest that this will remove the necessity of that Office developing their own procedures for preparing such notes. Other states have indicated to the Committee, however, that the process of having notes prepared outside state government has not proven workable.

Conclusion: Opinions on the workability of fiscal notes relative to the mandate issue are very mixed.

1. It is generally felt they have no role in financial assistance, only in restraint. Interestingly, however, this also seems to be true of reimbursement.

2. Opinions are divided, but the predominant opinion is that they have no role in restraint, only in providing information and heightening awareness of the issue.

3. There is a minority opinion that says that even these latter functions serve no purpose.

4. If one subscribes to the majority opinion, a case can be made that the benefits of fiscal notes can be obtained by organizational changes such as covered in Section III without the frustrations and costs of a fiscal note process. Maine Municipal Association made the point to the Committee that they feel that the Legislature operates with restraint concerning mandates when they are aware that costs are involved. The Committee accepts this point of view.

If one subscribes to the minority opinion, then a case can be made for a fiscal note process as being a more direct and observable response to the mandate issue and that the state should begin slowly and carefully the steps which will eventually lead to a fiscal note process which should include measurable objectives to evaluate the process and a sunset provision.

### 3. Procedure for Mandate Bills

Maine Municipal Association has suggested to the Committee that the following may be the 2 major failures of the current mandate system:

a. Legislators will act with fiscal restraint if they are aware that the bill they are considering will have a significant fiscal impact. However, in some instances the existence of a cost impact is not known to the legislators at the time of voting on the bill.

b. The degree of fiscal restraint shown by the Legislature is generally satisfactory. It is the perception of it by local governments that is the problem.

A number of states have instituted procedural changes which it appears could address the above issues.

- a. Require that all mandate bills be filed before the beginning of the session.
- b. Prohibit enactment of any mandate bills in the last two weeks of the session.
- c. Require a two-thirds vote for passage.
- d. Require that all mandate bills that are passed be sent to a mandate appropriations committee.
- e. Identify bills at referencing as containing a mandate.
- f. Require at least 10 days from referral to committee until bill is reported out of committee.
- g. Require that notice of contemplated department rules be provided to concerned local governments at an early stage and that local governments be given an opportunity to provide advice and recommendations prior to the formal rule making procedures on those mandates which have a fiscal impact.

Executive Order 13 FY 85/86 directed that all state agencies publish a regulatory agenda of proposed rules. It seemed to the Committee that the tone of this order appeared to direct it more to rules affecting business than rules affecting local governments. It was indicated to the Committee that compliance with this order by the agencies was slow in developing.

Executive Order 7 FY 87/88 revised the above order. It requires that a regulatory agenda need be published only for rules required by federal or state legislation and allows the adoption of rules of any type that were not included on this agenda.

LD 1651, May 21, 1987 "AN ACT to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Adoption of Rules", which is in a carry over status before the Committee on State & Local Government, has a provision related to this procedure. This provision is a requirement that agencies must prepare a regulatory agenda prior to proposing

rules and that this agenda must be supplied to, among others, the Legislature and interested persons.

### III. Organizational Responses

#### A. Background

The Committee developed testimony which suggested the possibility of responding to the mandate issue thru organizational changes. Among the points made in the testimony received were the following:

1. Of the 5 persons recommended as witnesses by GAO and ACIR, 3 had positions in types of entities that Maine does not have or that do not deal in Maine with fiscal notes. These were:

- a. New York. The Commission on State-Local Relations. Fiscal notes done elsewhere. State has no reimbursement. Commission composed entirely of legislators. Has yearly sunset. Sets its own study agenda within broad legislative guidelines. This Commission has a staff of 10 and a budget of \$550,000.

The statute covering the New York Commission lists the following areas for study.

- 1) The state's system of aid to localities.
- 2) The division of state and local responsibilities.
- 3) State mandates on local government.
- 4) State limits on the taxing and borrowing abilities of local governments.
- 5) The general revenue sharing formula and its relationship to other aspects of state-local relations.

- b. Rhode Island. The Office of Municipal Affairs, Department of Administration. This office handles fiscal notes and reimbursement. It is in charge of all fiscal relationships between the state and the municipalities, and affirms that without this long term total involvement it would be unable to do fiscal notes and reimbursement.

The following are the duties of this Department:

- 1) Distribution of state aid.
- 2) Provision of research and technical assistance.
- 3) Oversight of local fiscal operations.
- 4) Annual preparation of the municipal wealth factor for the state aid to local education programs (Tax Equalization Program.).

c. Massachusetts. Division of Local mandates, Auditor of the Commonwealth. Responsible for reimbursement but not fiscal notes, unless requested. This division has a staff of 29 and a budget of \$800,000.

2. The very active Task Force on State-Local Relations of the National Conference of State Legislators has recommended the creation of state advisory committees on intergovernmental relations whose purpose would be to study state-local issues, resolve state-local problems, and develop a local fiscal data base and accompanying reports. The following were the specific guidelines given for this committee:

- Created by Statute
- Should be either a legislative commission with strong role for local governments as advisors or a true ACIR which includes legislators, executive branch and municipal officials.
- Should be part of the legislature or an independent entity.
- Should have adequate budget and qualified staff. Four people and a \$200,000 budget are suggested, with local governments participating in the funding.

3. An article in the summer-fall 1987 edition of Intergovernmental Perspective gives an overview of state organizations dealing with intergovernmental issues. It indicates that 25 states have some type of intergovernmental organization and that these break down into the following general types:

- a. Eighteen states have a typical state ACIR, with an average of 22 members. Nine have a specific appropriation and 8 have full time staff.

b. Three states, Maine included, have local advisory groups. These consist solely of local members and have as their role advising the Governor. Maine has 12 members. Its liaison is the Commissioner of Transportation. In the past it has had ad hoc staffing by the State Planning Office relative to that office's former role in community assistance, a role since transferred to the Department of Economic and Community Development. Currently there is no staffing and in the opinion of prior staff from the Planning Office staffing is probably not needed if activities of the Maine council continue in their present vein.

c. Four states, New York included, have a legislative organization. All of these organizations have staff and budget.

4. A compilation by title of the membership of the Council of State Community Affairs Agencies shows the following breakdown:

Title includes the words:

Community Affairs	12(By itself: 7)
Economic Development - no mention of community	11
Commerce - no mention of community	7
Community Development	7(By itself: 1)

The Council feels that the best state organizations for dealing with the totality of intergovernmental relations and community affairs are:

a. Georgia Dept. of Community Affairs

The Georgia Department of Community Affairs performs the following functions:

- 1) Technical assistance on personnel administration, financial management, law enforcement, building codes and public works.
- 2) Community Development Block Grant Program.
- 3) Community and economic development.

4) Government information

a) Administrators an annual survey of local government revenues and expenditures, and prepares an annual report on same.

b) Prepares state development profiles.

b. Illinois Dept. of Commerce & Community Affairs

c. Pennsylvania Department of Community Affairs

"The Pennsylvania Department provides financial and technical assistance for a wide variety of local economic and social needs. Its objective is to help local governments run more efficiently. It provides technical assistance and training in planning and zoning, housing and redevelopment, parks and recreation, administration and finance, and community and economic development. In addition, it is the chief advocate for municipalities and serves as their ambassador to state and federal government.

A study conducted in 1981 indicated that 25 states had advisory boards in conjunction with their departments of community affairs. These boards, however, were rated as "having only minor impact, not effective in a broad range of activities, weak, and as not influencing policy to a significant extent". They were felt to confine themselves to being service providers and advocates not to have taken initiative to change the form of local government or develop a comprehensive approach to local problems. The reasons identified for these failures were:

- membership solely of local officials.
- lack of independent staff and financial resources
- competition with local government associations.
- emphasis on the advocacy role.

The study appeared to conclude that an ACIR was a better vehicle than a community affairs advisory council.

B. Current Situation in Maine

Maine currently has the following organizations which in some way relate to the mandate issue.

1. The aforementioned Governor's Municipal Advisory Council.
2. The newly created Department of Economic and Community Development.

LD 1808, June 11, 1987 created the Department of Economic and Community Development. Its mission is stated as follows:

- a. Encourage and coordinate economic and community development programs.
- b. Work with local governments to build strong local economies.
- c. Implement programs and services thru these local organizations.
- d. Encourage the creation and retention of jobs thru private sector investments.
- e. Enhance the quality of life by assisting local governments to plan and implement comprehensive community development strategies.

The same legislation created the Office of Community Development within the new Department. Its stated mission is:

- a. Assist municipalities in planning for and achieving development while preserving and protecting their resources.
- b. Remove barriers to balanced growth.
- c. Provide planning, technical and financial resources to municipalities.

Observation: The Committee feels that the increasing burdens being placed on local governments and increasing complexity of intergovernmental relationships requires some forum for dealing with the totality of intergovernmental relations. The Committee is concerned as to whether this newly created department will provide that forum. This concern stems from the emphasis in the department on development, which certainly coincides with the

emphasis in the state on this subject, and the combining of state and community activities in the same department.

3. The Maine Community Services Act which sets up:
  - a. A Division of Community Service within the Executive Department.
  - b. A Community Services Advisory Board consisting of legislators and appointees of the Governor.

This Act is concerned principally with disadvantaged and low income families.

4. Title 3, Chapter 13 establishes a Commission on Intergovernmental Relations for Maine. It is to consist of legislators, municipal officials, and members of the public, the latter 2 groups appointed by the Governor. It's stated functions are:
  - a. To consider common problems, particularly state and federal grant programs.
  - b. To provide information to all levels and branches of government concerning proposed and current legislation.
  - c. To discuss and study emerging problems that require intergovernmental cooperation.
  - d. To recommend the most desirable allocation of governmental functions, responsibilities and revenues among the several levels of government.
  - e. To recommend methods of coordinating and simplifying tax laws.
  - f. To recommend needed legislation.

The law setting up this commission was passed in 1963. To the best of the Committee's knowledge, this Commission has not actively functioned since 1970-71.

LD 699, March 16, 1987 amended the statutes governing the Commission to give it more of a legislative slant by having all members appointed by the Legislature and by having the Commission file the required annual report with the Legislature, not the Governor. The bill was given a leave to withdraw.

Both the current Commission and the Commission as modified by LD 699 would leave the Maine Commission short of being a true ACIR, with executive, legislative and local representatives. Its combination of legislative and local representation leaves it in largely unoccupied territory between an ACIR and a legislative commission

A title which deals with this subject has been accepted for the second session of the 113th Legislature. The bill has not been drafted but the drafting request calls for more members, a clarification of the Commission's role and funding. It would be assumed that this bill is changed significantly versus LD 699 in order for it to be accepted in the 2nd session.

5. The July 27, 1982 report of the Blaine House Conference on State and Local Relations recommended a strong role for the Governor's Municipal Advisory Council in influencing state policies and a restructuring of the Commission on Intergovernmental Relations to give it more independence, adequate funds and more representative membership. The follow up 1982 Report to the Governor of the Cabinet Committee on State and Local Relations, however, recommended an office of intergovernmental affairs in the Governor's office with the following duties:

- manage and improve relations with municipal governments;
- provide administrative staff support for the Governor's Municipal Advisory Council, and other such boards and commissions;
- manage relations between the Governor's office and the federal government and congressional delegation;
- maintain relations with various national groups such as the National Governors Association, regional groups such as the New England Governors Conference, and international agents such as the Canadian Provinces and Premiers;
- coordinate program development and long-range planning generated by state agencies which directly affects local government;
- serve as ombudsman for municipal problems relating to state agencies;
- monitor and evaluate federal policies, proposals, and activities which directly affect state and local government.

The staff for such an office would include a director, one staff person, the Washington representative, the Canadian representative, and clerical support. Research functions were to be provided primarily by the State Planning Office and the Department of Finance and Administration.

Executive Order 5 FY 83/84 established an Office of Intergovernmental Affairs. It was given essentially the same functions as recommended by the Cabinet Committee report. The Mandate Committee determined that after one fairly active year the Office of Intergovernmental Affairs gradually fell into disuse and is, at this time, essentially nonfunctioning.

#### C. Desirable Activities Relating to Mandates

The Committee sees a number of activities that could profitably be carried out relative to the mandate issue, activities that could be assigned variously to an executive agency or an intergovernmental body. Among these roles are:

1. Have the membership diversity and financial, staff and time resources to work further on resolving the issues which this Committee has identified.
2. Develop a data base of local fiscal information.
3. Assist in the preparation of fiscal notes.
4. Administer a reimbursement program.
5. Develop of a catalog of current mandates.
6. During the session, identify at an early stage, monitor and maintain a running accounting of mandate legislation and, at the end of the session, issue a report on mandated legislation.
7. Develop a procedure for scientifically sampling local governments in the preparation of fiscal notes.
8. Be available to deal with specific state-local mandate type issues before they reach the legislation stage.

It is, of course, recognized that any one organization could not perform all these functions and also that some of them can be performed by existing organizations in Maine. However, given their scope and importance and given their place as only one aspect of the increasingly complex interrelationship

between state and local government, it is felt to be desirable that the State review its current organizational structure relative to these issues to assure that it deals adequately with the changing nature of the intergovernmental relationship and the increasing burdens being thrust on local governments, of which mandates is only one aspect.

JK/SLG/jj/2471\*



APPENDICES



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## Reimbursement

### Authority

This study has been approved by the Legislative Council.

### Meetings

This study will require 3 Subcommittee meetings and 1 meeting of the full Committee.

### Starting/Reporting Date

An organizational meeting for this study will be held on June 30, 1987. Recommended legislation shall be submitted by December 4, 1987.

### Committee

This study shall be conducted by a 5 member Subcommittee of the Joint Standing Committee on State and Local Government.

### Subject of Study

Reimbursement to political subdivisions of the State for costs incurred by political subdivisions to implement state mandated programs and agency rules.

### Reason for Study

As a result of federal program cutbacks, the termination of federal revenue sharing, and costs of implementing programs mandated by the state and rules adopted by state agencies, the municipalities and counties argue that these costs can only be met by increases in the property tax which is a regressive tax. The state, with broad based progressive tax structures, it is argued, should finance the costs of programs and rules imposed by the State on municipalities and counties.

### Scope of Study

- A. Evaluate data
  1. Review data with respect to increases in property taxes throughout the State.
  2. Determine the extent to which increased property taxes are the result of
    - a. cutbacks or losses of federal funds
    - b. erosion of the tax base
    - c. state mandated programs
    - d. rules of state agencies
    - e. other reasons

B. Procedure

1. Work with the Bureau of Taxation and the State Auditor to obtain the data necessary to conduct the research.
2. Survey the laws enacted during a legislative session to determine the costs, if any, that were mandated on political subdivisions of the State.
3. Request state agencies to provide fiscal information relating to costs of rules imposed on political subdivisions of the state during the biennium for which the survey of state laws is being conducted.
4. Review laws and procedures used in other states to address the issue in this study.

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MANDATES IMPOSED BY THE 112TH LEGISLATURE

THE 112TH LEGISLATURE, MEETING IN 1985 AND IN 1986, ENACTED A VARIETY OF MANDATES ON LOCAL GOVERNMENTS IN A NUMBER OF BROAD POLICY AREAS. THE PURPOSE OF THIS PRESENTATION IS TO LIST THOSE MANDATES TO GIVE THE READER AN IDEA OF THE TYPES OF MANDATES AND THE AREAS IN WHICH MANDATES TYPICALLY FALL. ADDITIONAL TIME WOULD HAVE ALLOWED THE PREPARATION OF FISCAL IMPACTS FOR EACH OF THESE MANDATES. IT IS HOPED THAT THE DESCRIPTION FOLLOWING EACH MANDATE WILL GIVE THE READER SOME IDEA AS TO THE DEGREE OF FINANCIAL IMPOSITION.

I. EDUCATION

THE 111TH LEGISLATURE SET IN MOTION THE MOST EXTENSIVE EDUCATIONAL REFORMS. THE 112TH LEGISLATURE, HOWEVER, WAS STILL VERY CONCERNED WITH THE ISSUE OF EXCELLENCE IN EDUCATION AND CONTINUED TO MANDATE A NUMBER OF REFORMS.

1. LD 834 - "AN ACT TO EXTEND THE NATIONAL SCHOOL BREAKFAST AVAILABILITY TO MAINE SCHOOL CHILDREN." THIS NEW LAW REQUIRES THE SCHOOL BOARD IN THOSE PUBLIC SCHOOLS DESIGNATED AS ESPECIALLY NEEDY TO HOLD A PUBLIC HEARING DURING THE 1985-1986 SCHOOL YEAR TO DETERMINE WHETHER THERE IS SUFFICIENT PARENTAL INTEREST TO REQUIRE THAT SCHOOL TO PARTICIPATE IN THE NATIONAL SCHOOL BREAKFAST PROGRAM.

COST: MINIMAL. PRIMARILY ASSOCIATED WITH HOSTING AND STAFFING A PUBLIC HEARING.

2. LD 1028 - "AN ACT TO IMPROVE THE LAWS ON SCHOOL HEALTH PROGRAMS."  
THIS NEW LAW REQUIRES EACH SCHOOL BOARD TO APPOINT ONE OR MORE SCHOOL PHYSICIANS AND TO APPOINT AT LEAST ONE SCHOOL NURSE FOR EACH ADMINISTRATIVE UNIT. SINCE PRIOR LAW ONLY REQUIRED THE APPOINTMENT OF A SCHOOL PHYSICIAN, IF FUNDS WERE APPROPRIATED FOR THAT PURPOSE, THIS NEW LAW IMPOSES A SUBSTANTIAL NEW REQUIREMENT ON THOSE SCHOOL UNITS THAT HAD NOT PREVIOUSLY FUNDED A SCHOOL PHYSICIAN POSITION. THIS NEW LAW ALSO REQUIRES THE APPOINTMENT OF A SCHOOL NURSE, WHICH IS A BRAND NEW REQUIREMENT.

3. LD 1228 - "AN ACT TO PROVIDE FOR STATE CERTIFICATION OF SCHOOL ADMINISTRATORS." THIS NEW LAW REQUIRED THE BOARD OF EDUCATION TO DEVELOP AND IMPLEMENT RULES FOR CERTIFICATION OF SCHOOL ADMINISTRATORS.

COST: CERTIFICATION OF ADMINISTRATORS WILL BE A LOCAL FUNCTIONS AND THE COSTS WILL BE SUBSTANTIAL. THEY ARE AS YET UNKNOWN. THE 113TH LEGISLATURE ENACTED BLOCK GRANTS OF \$250/ADMINISTRATOR TO DEFRAID THE COST OF THIS MANDATE.

4. LD 1420 - "AN ACT REQUIRING THE DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES TO ESTABLISH MODELS FOR EVALUATING TEACHERS."

THIS NEW LAW REQUIRED THE DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES TO ESTABLISH MODELS FOR EVALUATION OF THE PROFESSIONAL PERFORMANCE OF TEACHERS.

COST: PRIMARY COST WILL BE IN THE AREA OF IMPLEMENTATION OF PROGRAMS IN ADHERANCE WITH THE NEW MODEL.

5. LD 1580 - "AN ACT TO IMPLEMENT TEACHER RECOGNITION GRANTS AND TO ESTABLISH A MINIMUM SALARY FOR TEACHERS." THIS NEW LAW ESTABLISHED A MANDATORY MINIMUM SALARY OF \$15,500 FOR THE SCHOOL YEAR THAT BEGAN JULY 1, 1987.

COSTS: THEN-COMMISSIONER REDMOND'S ADVISORY COMMITTEE ON SCHOOL FUNDING ESTIMATED THE COST OF THIS MANDATE ALONE TO BE \$10 MILLION. FOR THIS SCHOOL YEAR.

6. LD 1585 - "AN ACT CONCERNING EDUCATION PROGRAMS FOR GIFTED AND TALENTED CHILDREN." THIS NEW LAW REQUIRED SCHOOL ADMINISTRATIVE UNITS TO PHASE IN PROGRAMS FOR GIFTED AND TALENTED CHILDREN OVER A FIVE YEAR PERIOD COMMENCING IN 1987-88.

COST: SUBSTANTIAL AND BECOMING MORE SUBSTANTIAL IN FUTURE YEARS AS THE PROGRAMS ARE FULLY PHASED IN.

## II. ELECTIONS/CLERKS

1. LD 1540 - "AN ACT RELATING TO POLLING TIMES." THIS NEW LAW REQUIRED MUNICIPALITIES TO OPEN THE POLLS BY 9:00 A.M. AND TO KEEP THEM OPEN UNTIL 8:00 P.M. ON ALL STATEWIDE ELECTION DAYS.

COST: SINCE MANY MUNICIPALITIES DID NOT OPEN THE POLLS UNTIL 10:00 A.M. AND CLOSE THEM BEFORE 8:00 P.M., THIS NEW LAW IMPOSED NEW COSTS FOR KEEPING THE POLLS OPEN DURING THE EXTENDED PERIOD OF TIME. ELECTION CLERKS, BALLOT WARDENS AND OTHER PERSONNEL HAD TO BE PAID FOR THE EXTRA TIME. THERE WERE ALSO ADDITIONAL OVERHEAD COSTS INCURRED IN KEEPING THE POLLING PLACE OPEN FOR THE EXTRA HOUR OR HOURS.

2. LD 1603 - "AN ACT TO CHANGE VOTING BOOTH REQUIREMENTS." THIS LAW REQUIRED MUNICIPALITIES OF 4,000 OR MORE TO HAVE ONE VOTING BOOTH FOR EVERY 150 VOTERS AND THOSE UNDER 4,000 TO HAVE ONE BOOTH FOR EVERY 200 VOTERS. THIS NEW LAW ACTUALLY REDUCED A MANDATED ENACTED BY THE 111TH LEGISLATURE. THE 111TH LEGISLATURE MANDATED ONE VOTING BOOTH FOR EVERY 150 VOTERS, REGARDLESS OF SIZE. PREVIOUS LAW HAD ONLY REQUIRED A MUNICIPALITY TO PROVIDE A SUFFICIENT NUMBER OF VOTING BOOTHS FOR EACH ELECTION.

COST: SIGNIFICANT, FOR SOME MUNICIPALITIES.

3. LD 155 - "AN ACT CONCERNING RECORDATION OF INTERMENTS." THIS NEW LAW REQUIRED EACH MUNICIPALITY TO MAINTAIN A RECORD OF ANY ENDORSED PERMIT FOR INTERMENT OF HUMAN BODIES OR ASHES.

COST: MINIMAL FOR MOST MUNICIPALITIES. SUBSTANTIAL FOR MUNICIPALITIES THAT HAD NEVER MAINTAINED SUCH RECORDS IN THE PAST, TYPICALLY THE VERY SMALL MUNICIPALITIES.

### III. ENVIRONMENT

1. LD 1655 - "AN ACT TO AMEND CERTAIN PROVISIONS OF THE OIL DISCHARGE PREVENTION AND POLLUTION CONTROL AND TO ESTABLISH A NEW ACT RELATING TO UNDERGROUND OIL STORAGE." THIS NEW LAW DID NOT TREAT MUNICIPALITIES ANY DIFFERENTLY FROM THE WAY IT TREATED OTHER OWNERS OF UNDERGROUND STORAGE TANKS. THE REQUIREMENT TO REGISTER AND TEST EXISTING TANKS, HOWEVER, IMPOSED NEW REQUIREMENTS ON MUNICIPALITIES AS OWNERS OF UNDERGROUND STORAGE TANKS.
2. LD 961 - "AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE MAINE LAND AND WATER RESOURCE COUNCIL GROUNDWATER REVIEW POLICY COMMITTEE." THIS NEW LAW REQUIRED MUNICIPALITIES TO REGISTER THE LOCATION OF ROAD SALT OR SAND/SALT STORAGE PILES TO DEP BY JANUARY 1, 1986. THIS NEW LAW WAS AN AMENDED VERSION OF THE ORIGINAL BILL WHICH WOULD HAVE REQUIRED ALL MUNICIPALITIES TO BUILD AND CONSTRUCT STORAGE AREAS WITHIN TEN YEARS.

3. LD 1399 - "AN ACT TO PROHIBIT OPEN BURNING AT ALL MUNICIPAL SOLID WASTE DISPOSAL SITES." THIS NEW LAW PROHIBITED OPEN BURNING OF SOLID WASTE AFTER JANUARY 1, 1989 AT MUNICIPAL SOLID WASTE DISPOSAL SITES SERVING FEWER THAN 1,000 PERSONS. EACH AFFECTED MUNICIPALITY WAS REQUIRED TO SUBMIT AN ALTERNATIVE SOLID WASTE DISPOSAL PLAN TO THE BOARD OF ENVIRONMENTAL PROTECTION BY JULY 1, 1986 AND TO IMPLEMENT THAT PLAN BY JANUARY 1, 1989.

COST: VERY HIGH. APPROXIMATELY 100 MUNICIPALITIES WERE AFFECTED.

4. LD 1496 - "AN ACT TO ESTABLISH MANDATORY ENERGY STANDARDS FOR PUBLICALLY FUNDED BUILDINGS." THIS NEW LAW REQUIRED RENOVATION OR CONSTRUCTION OF PUBLICALLY FUNDED BUILDINGS TO CONFORM TO ENERGY STANDARDS ESTABLISHED BY THE DIRECTOR OF THE OFFICE OF ENERGY RESOURCES. IT APPLIES TO CONSTRUCTION AFTER JANUARY 1, 1987.

COST: POTENTIAL OF INCREASED COST TO BUILD IN ACCORDANCE WITH THE ENERGY STANDARDS PARTICULARLY FOR SMALLER MUNICIPAL BUILDINGS THAT WERE NOT CONTEMPLATED FOR FULL-TIME YEAR-ROUND USE.

5. LD 1549 - "AN ACT TO GUARANTEE EQUITABLE ACCESS TO SOFT SHELLLED CLAM RESOURCES." THIS NEW LAW REQUIRED MUNICIPALITIES TO RESERVE AT LEAST 10% OF THEIR COMMERCIAL LICENSES FOR NON-RESIDENTS.

COST: NONE.

6. LD 2443 - "AN ACT TO IMPOSE A MORATORIUM ON THE LICENSING OF COMMERCIAL LANDFILLS FOR THE DISPOSAL OF SOLID WASTE." THIS NEW LAW WAS ENACTED IN SPECIAL SESSION. EVEN THOUGH IT EXEMPTED MUNICIPAL LANDFILLS FROM THE MORATORIUM, THE REALITY WAS THAT MOST MUNICIPALITIES WERE CLOSING THEIR OWN LANDFILLS AND RELYING ON THESE COMMERCIAL LANDFILLS, ENABLING THE EXISTING COMMERCIAL OPERATORS TO INCREASE THEIR RATES IN VIEW OF THE INCREASED DEMANDS THIS MORATORIUM CREATED. MANY MUNICIPALITIES HAVE EXPERIENCED HIGHER COSTS, ATTRIBUTABLE IN PART TO THIS STATE LAW.
  
7. LD 2071 - "AN ACT CONCERNING STATE CONTRIBUTIONS TO POLLUTION ABATEMENT." THIS NEW LAW, IN ADDITION TO OTHER THINGS, IMPOSED NEW APPLICATION REQUIREMENTS ON MUNICIPALITIES WISHING TO TAKE ADVANTAGE OF THESE STATE FUNDS. IT REQUIRED EACH APPLICANT, MEANING THE INDIVIDUAL HOMEOWNER OR COMMERCIAL ESTABLISHMENT OWNER, TO SIGN A STATEMENT DESCRIBING THE NEED FOR THE GRANT. MUNICIPALITIES MUST ADMINISTER THIS PROVISION AND RETAIN THE RECORDS.  
  
COST: SOME INCREASED COSTS FOR NEW ADMINISTRATIVE PAPERWORK.
  
8. LD 2167 - "AN ACT TO ENHANCE THE SOUND USE AND MANAGEMENT OF MAINE'S COASTAL RESOURCES." THIS NEW LAW AMENDED THE SUBDIVISION LAW TO REQUIRE COASTAL MUNICIPALITIES TO CONSIDER ADDITIONAL STANDARDS WHEN REVIEWING SUBDIVISIONS. THIS NEW LAW ALSO MADE

SEVERAL AMENDMENTS TO THE SHORELAND ZONING LAW REQUIRING MUNICIPALITIES TO AMEND THEIR OWN ORDINANCES AND TO CONSIDER NEW STANDARDS WHEN REVIEWING PROJECTS WITHIN THE SHORELAND ZONE.

COST: THE MOST SUBSTANTIAL COST TO MUNICIPALITIES WILL BE FOR AMENDING EXISTING SHORELAND ZONING ORDINANCES AND SUBDIVISION REGULATIONS. ANOTHER COST WILL BE THE INCREASED COST OF REVIEW BY LOCAL PLANNING BOARDS.

#### IV. WELFARE

1. LD 786 - "AN ACT TO CLARIFY THE GENERAL ASSISTANCE LAW." THE HISTORY OF THIS NEW LAW IS AN EXCELLENT EXAMPLE OF HOW THE JUDICIARY CAN GET INVOLVED IN IMPOSING MANDATES ON LOCAL GOVERNMENTS AS WELL AS THE LEGISLATURE. THE MAINE SUPREME COURT, PREVIOUS TO THIS LAW, HAD INTERPRETED MAINE'S GENERAL ASSISTANCE LAW TO DEFINE NEED AS THE ONLY ELIGIBILITY REQUIREMENT FOR RECEIPT OF GENERAL ASSISTANCE. THIS JUDICIAL INTERPRETATION HAD THE EFFECT OF DRASTICALLY CHANGING THE WAY EVERY MUNICIPALITY CONDUCTED ITS GENERAL ASSISTANCE PROGRAM BY SIGNIFICANTLY EXPANDING THE NUMBER OF PEOPLE ELIGIBLE TO RECEIVE GENERAL ASSISTANCE. THIS NEW LAW IS THE LEGISLATURE'S REACTION TO THIS INTERPRETATION. IT NARROWS ELIGIBILITY CRITERIA, BUT NOT TO THE EXTENT THAT ORDINANCES HAD PRIOR TO THE COURT DECISION. THIS NEW LAW ALSO ENACTED SPECIFIC PROHIBITIONS AND REQUIREMENTS THAT HAD TO BE CONTAINED IN MUNICIPAL

GENERAL ASSISTANCE ORDINANCES, GETTING THE STATE INVOLVED IN A MORE DETAILED WAY WITH THE ADMINISTRATION OF MUNICIPAL GENERAL ASSISTANCE PROGRAMS.

COST: THE COSTS ATTRIBUTABLE TO THE COURT DECISION ARE HIGH. THOSE THAT COULD BE ATTRIBUTED SOLELY TO THIS LEGISLATION ARE MINIMAL, HOWEVER. IN FACT, ONE COULD ARGUE THAT BECAUSE THE LEGISLATION CONTAINS A NARROWER DEFINITION OF ELIGIBILITY, THAT THIS NEW LAW REDUCED COSTS FOR MUNICIPALITIES.

2. LD 2233 - "AN ACT TO IMPROVE CHILD WELFARE SERVICES IN MAINE." THIS NEW LAW CONTAINED A PROVISION THAT REQUIRED MUNICIPAL CODE ENFORCEMENT OFFICERS AND MUNICIPAL FIRE INSPECTORS TO REPORT KNOWLEDGE OR SUSPICION OF CHILD ABUSE TO THE DEPARTMENT OF HUMAN SERVICES.

COST: MINIMAL.

#### V. LAW ENFORCEMENT/CORRECTION

1. LD 749 - "AN ACT TO PROHIBIT CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN 150 FEET OF A PUBLIC WAY." ENFORCEMENT OF THIS LAW IS PASSED ON TO LOCAL POLICE, AND ENFORCEMENT CAN BE HANDLED IN ONE OF TWO WAYS: A POLICE OFFICER MAY PERSONALLY FORBID A PERSON FROM

DRINKING IN PUBLIC OR A MUNICIPALITY MAY POST NOTICE THAT SUCH DRINKING IS FORBIDDEN. POSTED NOTICE WILL BE HELD VALID ONLY IF THE DRINKING OCCURS WITHIN 150 FEET OF THE NOTICE.

COST: PRIMARY COSTS WILL BE FOR ENFORCEMENT. THIS NEW LAW IS ALSO AN INTERESTING EXAMPLE OF LEGISLATION THAT BECOMES VERY PRESCRIPTIVE IN THE WAY IT TELLS MUNICIPALITIES TO POST NOTICE.

2. LD 1387 - "AN ACT TO REQUIRE NEWLY APPOINTED COUNTY AND MUNICIPAL LAW ENFORCEMENT OFFICERS TO COMPLETE A BASIC TRAINING COURSE WITHIN THE FIRST SIX MONTHS OF THEIR EMPLOYMENT." PREVIOUS LAW REQUIRED COMPLETION OF THE COURSE WITHIN THE FIRST YEAR OF EMPLOYMENT.

COST: REDUCTION OF THE TIME PERIOD CAUSED HARDSHIP FOR MANY MUNICIPALITIES AND COUNTIES REQUIRING THEM IN MANY CASES TO HIRE FULL-TIME TEMPORARIES WHILE THE NEW EMPLOYEE IS IN TRAINING. COSTS WERE ALSO INCREASED FOR THE MAINE CRIMINAL JUSTICE ACADEMY TO HANDLE THE INCREASE IN THE NUMBER OF PEOPLE REQUIRING ITS TRAINING.

3. LD 2434 - "AN ACT TO IMPLEMENT CERTAIN RECOMMENDATIONS OF THE BLUE RIBBON COMMISSION ON CORRECTIONS." THIS NEW LAW WAS ENACTED IN SPECIAL SESSION AND IMPOSED SUBSTANTIAL NEW REQUIREMENTS ON COUNTY JAILS. ALTHOUGH EVERY EFFORT WAS MADE BY THE LEGISLATURE TO IDENTIFY THOSE COSTS UPFRONT AND TO PROVIDE A MECHANISM FOR

REIMBURSING THOSE COSTS TO COUNTIES, EVERYONE KNEW THAT THE PRIMARY BURDEN FOR DEVELOPING A COMMUNITY-BASED CORRECTIONS PROGRAM WAS BEING DELEGATED TO THE COUNTY.

VI. MUNICIPAL GOVERNMENT

1. LD 13 - "AN ACT RELATING TO THE REGISTRATION OF SOIL AMENDMENTS." THIS NEW LAW REQUIRED MUNICIPAL AND QUASI-MUNICIPAL WASTE TREATMENT PLANTS TO REGISTER AND LABEL SOIL AMENDMENTS FOUND IN SLUDGE OR COMPOSTED WASTE.

COST: DEPENDENT UPON SIZE OF MUNICIPALITY AND NUMBER OF PROFESSIONAL STAFF PEOPLE EMPLOYED BY THAT MUNICIPALITY. COSTS WOULD BE GREATER FOR THE SMALLER MUNICIPALITIES. TECHNICALLY DIFFICULT TO COMPLY IN SOME INSTANCES.

2. LD 276 - "AN ACT TO ESTABLISH POLICIES GOVERNING SMOKING IN PLACES OF WORK." THIS NEW LAW REQUIRED ALL EMPLOYERS TO ESTABLISH, POST, AND ENFORCE A WRITTEN POLICY FOR EACH FACILITY CONCERNING WHERE EMPLOYEES OF THAT FACILITY MAY OR MAY NOT SMOKE. THIS NEW LAW DID NOT TREAT MUNICIPALITIES DIFFERENTLY FROM ANY OTHER TYPE OF EMPLOYER.

COST: STAFF TIME TO DEVELOP SMOKING POLICY.

3. LD 1192 - "AN ACT REQUIRING IMPARTIAL SUMMARIES OF CHARTER AMENDMENTS." THIS NEW LAW REQUIRED MUNICIPALITIES TO PREPARE A SUMMARY OF ANY PROPOSED CHARTER AMENDMENT WITH THE ADVICE OF AN ATTORNEY. THE LAW REQUIRED THAT THE SUMMARY BE IMPARTIAL AND NOT CONTAIN ANY LANGUAGE DESIGNED TO PROMOTE OR DEFEAT THE PROPOSAL.

COST: MINIMAL, IF ANY, SINCE SUCH SUMMARIES WERE ALREADY REQUIRED. THIS NEW LAW CREATED NEW STANDARDS FOR THE DEVELOPMENT OF THE SUMMARY.

4. LD 51 - "AN ACT REGARDING NOTICE OF MUNICIPAL SHELLFISH CONSERVATION PROGRAMS." THE 11TH LEGISLATURE HAD ENACTED A PROVISION REQUIRING MUNICIPALITIES TO PUBLISH NOTICE OF THE NUMBER AND PROCEDURE FOR APPLYING FOR NON-RESIDENT SHELLFISH LICENSES IN A TRADE PUBLICATION. SINCE THERE WAS ONLY ONE SUCH PUBLICATION, AND SINCE IT HAD INFLEXIBLE DEADLINES, THIS NEW LAW GAVE MUNICIPALITIES THE OPTION OF PUBLISHING THE SAME THING IN A NEWSPAPER OF GENERAL STATEWIDE CIRCULATION.

COST: PRIMARY COST WOULD BE THE COST OF BUYING THAT KIND OF NEWSPAPER ADVERTISEMENT. THIS LAW ACTUALLY REDUCES IMPACT OF A MANDATE PASSED BY PRIOR LEGISLATURE.

5. LD 1501 - "AN ACT ESTABLISHING ASSESSMENTS TO DEFRAY THE EXPENSE OF MAINTAINING THE BUREAU OF INSURANCE." THIS NEW LAW ESTABLISHED ASSESSMENTS UPON ALL SELF-INSURING EMPLOYERS TO DEFRAY THE COSTS OF WORKERS' COMPENSATION SELF-INSURANCE ADMINISTRATION.

COST: THIS IMPOSED A NEW COST ON ALL SELF-INSURING EMPLOYERS, MANY OF WHICH WERE MUNICIPALITIES.

#### VII. PERSONNEL

1. LD 944 - "AN ACT TO PROVIDE THAT A COST OF LIVING PLAN FOR RETIRED PERSONS UNDER THE MAINE STATE RETIREMENT SYSTEM SHALL APPLY TO ALL PARTICIPATING LOCAL DISTRICTS THAT DO NOT PROVIDE SOCIAL SECURITY BENEFITS FOR EMPLOYEES." THIS NEW LAW REQUIRED ALL PARTICIPATING LOCAL DISTRICTS WHICH OFFER MSRS BENEFITS WITHOUT A COST OF LIVING ADJUSTMENT AND WHICH DO NOT PROVIDE SOCIAL SECURITY COVERAGE TO PAY A COST OF LIVING ADJUSTMENT TO RETIREES EFFECTIVE JUNE 30, 1982. LOCAL DISTRICTS COULD AVOID THE IMPOSITION OF THIS MANDATE IF A COLLECTIVE BARGAINING AGREEMENT IS IN FORCE ON OR BEFORE SEPTEMBER 19, 1985, OR IF A LOCAL DISTRICT WITHDRAWS FROM MSRS BEFORE JUNE 30, 1987.

COST: AS AMENDED, THIS NEW MANDATE APPLIES TO A DOZEN OR SO MUNICIPALITIES. AS THE BILL WAS ORIGINALLY INTRODUCED, IT WOULD HAVE APPLIED TO MANY MORE MUNICIPALITIES. FOR THOSE MUNICIPALITIES

AFFECTED BY THE BILL, THE COST COULD BE SIGNIFICANT.

2. LD 433 - "AN ACT AMENDING THE MUNICIPAL PUBLIC EMPLOYEES LABOR RELATIONS ACT TO PROVIDE FOR NEWLY RECOGNIZED OR CERTIFIED BARGAINING AGENT TO BARGAIN FISCAL MATTERS WITHIN 120 DAYS WITHIN CONCLUSION OF CURRENT FISCAL OPERATING BUDGET." PREVIOUS LAW HAD REQUIRED THE COLLECTIVE BARGAINING AGENT TO SERVE NOTICE REGARDING FISCAL MATTERS TO PUBLIC EMPLOYERS AT LEAST 120 DAYS BEFORE THE END OF THE CURRENT FISCAL YEAR. THIS LAW EXEMPTS NEW BARGAINING AGENTS WHO ARE RECOGNIZED NOT MORE THAN 120 DAYS NOR FEWER THAN 30 DAYS BEFORE THE END OF THE CURRENT FISCAL YEAR FROM THIS REQUIREMENT.

COST: COULD IMPOSE AN UNANTICIPATED COST ON MUNICIPALITIES WITH RECENTLY ORGANIZED BARGAINING AGENTS.

3. LD 2161 - "AN ACT TO EXEMPT CERTAIN FIREFIGHTERS FROM THE THREE-YEAR STATUTE OF LIMITATIONS IN THE OCCUPATIONAL DISEASE LAW." UNDER THIS NEW LAW, FULL-TIME FIREFIGHTERS ALLEGING OCCUPATIONAL CANCER ARE EXEMPT FROM THE REQUIREMENT THAT THEIR OCCUPATIONAL DISEASE MANIFEST ITSELF WITHIN THREE YEARS OF LAST INJURIOUS EXPOSURE IN ORDER TO BE COMPENSABLE. THIS LAW IS A SIGNIFICANTLY DILUTED VERSION OF THE ORIGINAL BILL WHICH WOULD HAVE CONSIDERED ALL CANCERS AMONG FIREFIGHTERS TO BE A COMPENSABLE INJURY UNDER THE WORKERS' COMPENSATION LAW.

COST: POTENTIALLY SUBSTANTIAL. THIS NEW MANDATE IS PARTICULARLY FRUSTRATING BECAUSE IT APPLIES ONLY TO MUNICIPALITIES AND APPLIES BEFORE MEDICAL EVIDENCE SUGGESTS THAT FIREFIGHTERS ARE MORE PRONE TO CANCER THAN THOSE IN OTHER OCCUPATIONS.

4. LD 2209 - "AN ACT TO REQUIRE EMPLOYERS TO NOTIFY EMPLOYEES OF THE TERMINATION OF GROUP INSURANCE." THIS NEW LAW IMPOSES REQUIREMENTS ON ALL EMPLOYERS TO NOTIFY EMPLOYEES OF THE TERMINATION OF AN EMPLOYEE HEALTH BENEFIT PLAN. LIABILITIES IMPOSED UPON ALL EMPLOYERS FOR ANY BENEFIT WHICH WOULD HAVE BEEN PAYABLE TO A COVERED EMPLOYEE HAD THE HEALTH BENEFIT PLAN BEEN ENFORCED UNTIL THE EMPLOYER NOTIFIED THE EMPLOYEE OF THE TERMINATION.

COST: SAME FOR ALL EMPLOYERS.

5. LD 2273 - "AN ACT TO AMEND THE LAW RELATING TO GROUP HEALTH INSURANCE." THIS NEW LAW PROVIDES THAT UNDER CERTAIN CIRCUMSTANCES, AN EMPLOYEE WHOSE GROUP HEALTH INSURANCE IS TERMINATED AS THE RESULT OF A TEMPORARY LAYOFF, TERMINATION, OR WORK-RELATED INCAPACITY, MAY ELECT TO CONTINUE COVERAGE UNDER THE GROUP POLICY AT THE EMPLOYEE'S EXPENSE.

COST: SINCE THE EMPLOYEE WOULD BEAR THE COST OF THE PREMIUM, THE COST TO EMPLOYERS, INCLUDING MUNICIPALITIES, WAS IMPLEMENTATION. IMPLEMENTATION OF THIS NEW LAW WAS MADE MORE CONFUSING AND MORE

COSTLY IN LIGHT OF RECENT CHANGES ENACTED BY CONGRESS IN THE VERY  
SAME AREA.

VIII. ROADS AND BRIDGES

1. LD 1637 - "AN ACT TO ADJUST BRIDGE CAPITAL AND MAINTENANCE RESPONSIBILITIES." THIS NEW LAW CREATES A NEW COST SHARING FORMULA FOR CAPITAL IMPROVEMENTS ON LOCAL AND STATE AID ROADS AND TRANSFERS THE MAINTENANCE OF ALL MAJOR BRIDGES TO THE STATE. TAKEN AS A WHOLE, THE NEW LAW SHIFTED BRIDGE MAINTENANCE AND IMPROVEMENT RESPONSIBILITIES TO THE STATE. ON A CASE-BY-CASE BASIS, HOWEVER, THE IMPACT MAY HAVE BEEN THE REVERSE DEPENDING UPON THE NUMBER OF BRIDGES AND SIZE AND TYPE OF BRIDGE IN EACH MUNICIPALITY.

IX. TAXATION

1. LD 164 - "AN ACT REQUIRING CLARIFICATION OF DATES UPON WHICH LOCAL TAX PENALTIES ACCRUE." THIS LAW REQUIRES THAT MUNICIPAL TAX BILLS CLEARLY STATE THE DATE UPON WHICH INTEREST BEGINS TO ACCRUE ON UNPAID TAXES.

COST: SUBSTANTIAL IF MUNICIPALITIES HAD TO REVISE A COMPUTER TAX BILLING PROGRAM TO ACCOMMODATE THIS ADJUSTMENT.

2. LD 1551 - "AN ACT TO CLARIFY TAXPAYER INFORMATION ON LOCAL PROPERTY

TAX BILLS." THE PREVIOUS LEGISLATURE MANDATED THAT TAX BILLS CONTAIN A STATEMENT INDICATING HOW MUCH PROPERTY TAX BILLS HAD BEEN REDUCED DUE TO STATE AID FOR EDUCATION AND STATE MUNICIPAL REVENUE SHARING. THIS NEW LAW AMENDED THAT MANDATE BY CLARIFYING THAT MUNICIPALITIES COULD STATE THE PERCENTAGE RATHER THAN THE DOLLAR AMOUNT BY WHICH LOCAL TAXES HAD BEEN REDUCED.

COST: AGAIN, THE COST OF THE ORIGINAL MANDATE WAS SEVEREST FOR THOSE MUNICIPALITIES THAT HAD TO ADAPT COMPUTER PROGRAMS OR RE-BUY TAX FORMS IN ORDER TO ACCOMMODATE THIS MANDATE. ANOTHER COST, PARTICULARLY FOR THOSE MUNICIPALITIES WHICH ARE NOT COMPUTERIZED, IS THE TIME NECESSARY FOR THE TAX COLLECTOR TO TYPE THIS INFORMATION ON ALL TAX BILLS.

3. LD 1583 - "AN ACT TO REQUIRE ADEQUATE NOTICE OF TAX FORECLOSURE." THIS LAW REQUIRED MUNICIPALITIES TO GIVE NOTICE TO TAXPAYERS THAT THEY MAY APPLY TO THE MUNICIPALITY FOR HELP WITH THEIR TAX BILL IF THEY ARE UNABLE TO PAY IT. THE NOTICE MUST SPECIFICALLY STATE THAT THEY MAY APPLY FOR A POVERTY TAX ABATEMENT. FINALLY, THE NEW LAW REWROTE AND CREATED EXACT WORDING FOR THE FORECLOSURE NOTICE.

COST: REQUIRED REVISION OF TAX BILLING PROGRAM AND PROMPTED LITERALLY HUNDREDS OF PHONE CALLS AND MANY MORE APPLICATIONS FOR POVERTY TAX ABATEMENTS, INCREASING ADMINISTRATIVE TIME FOR THE MUNICIPALITY.

4. LD 1827 - "AN ACT TO PROVIDE FOR FAIR TREATMENT OF UNPOWERED FISHING DORIES UNDER THE BOAT EXCISE TAX LAW." THIS NEW LAW PROVIDED THAT ALL UNPOWERED DOUBLE-ENDED FISHING DORIES WOULD BE TAXED AT \$6.00, REGARDLESS OF THEIR LENGTH.

COST: THIS NEW LAW HAD THE EFFECT OF REDUCING THE EXCISE TAX ON SOME FISHING DORIES.

5. LD 2364 - "AN ACT CONCERNING PROPERTY TAX ASSESSMENT AND TAX APPEAL." THIS NEW LAW MADE SEVERAL CHANGES IN PROPERTY TAX ASSESSMENT AND APPEAL PROCEDURES. IT REQUIRED MUNICIPAL ASSESSORS TO DISCLOSE INFORMATION CONTAINED ON THE DECLARATION OF VALUE IF THAT INFORMATION WAS USED IN ARRIVING AT THE ASSESSED VALUE. IT REQUIRED LOCAL BOARDS OF ASSESSMENT REVIEW TO DENY OR GRANT AN APPEAL FOR AN ABATEMENT WITHIN 60 DAYS OF THE DATE AN APPLICATION IS FILED. FINALLY, IT CHANGED THE DEFINITION OF "JUST VALUE" TO REQUIRE THAT ASSESSORS CONSIDER SEVERAL FACTORS IN DETERMINING "JUST VALUE."

COST: MINIMAL.

6. LD 700 - "AN ACT PERTAINING TO INTEREST ON ABATED PROPERTY TAXES." THIS LAW ESTABLISHED THE RATE OF INTEREST TO BE PAID BY MUNICIPALITIES ON OVERPAID TAXES.

COST: VARIES. SOME MUNICIPALITIES ALREADY HAD RATES IN EXCESS OF THE NEW STATUTORY RATE; MANY DID NOT PAY INTEREST AT ALL.

7. LD 1516 - "AN ACT TO CHANGE THE LAW RELATING TO LIENS FOR UNPAID PROPERTY TAX ASSESSMENTS." THIS LAW REMOVED THE \$200 MINIMUM WHICH HAD TO HAVE BEEN MET BEFORE LIENS ON PERSONAL PROPERTY COULD BE PERFECTED.

COST: NONE.

8. LD 1935 - "AN ACT TO CLARIFY PROVISIONS RELATING TO THE PRORATION OF PROPERTY TAXES." THIS LAW ESTABLISHED THAT PROPERTY TAXES WOULD BE PRORATED BASED ON THE MUNICIPALITY'S FISCAL YEAR.

COST: NONE.

9. LD 2324 - "AN ACT RELATING TO PLACES OF PAYMENT OF MOTOR VEHICLE EXCISE TAX ON LEASED VEHICLES." THIS LAW REQUIRED THE EXCISE TAX ON LEASED MOTOR VEHICLES TO BE PAID TO THE MUNICIPALITY WHERE THE LESSEE RESIDES, RATHER THAN WHERE THE OWNER RESIDES.

COST: VARIES, SOME MUNICIPALITIES LOST EXCISE TAX REVENUE WHILE OTHERS GAINED.





John R. McKernan, Jr.  
Governor

Jean E. Mattimore  
Commissioner

DEPARTMENT OF FINANCE

Telephone (207) 289-3446

October 30, 1987

TO: John Knox, Legislative Analyst, Office of Policy & Legal Analysis  
 FROM: Jean E. Mattimore, Commissioner, Department of Finance  
 RE: Effect of Statutes from 112th Legislature on Local Government

Per your request of September 16, Departments have reviewed the list of statutes from the 112th which you provided to assess cost implications for municipalities. This memorandum lists only those laws where the department could approximate (and that is a generous use of the term) a cost of greater than \$100,000 state wide or anticipated some benefit in savings to local governments. In some instances, the departmental assessment of cost impact differs from the estimation on your list.

DEPARTMENT OF CORRECTIONS

LD 2434 - "An act to implement certain recommendations of the Blue Ribbon Commission on Corrections"

Impact - Anticipate savings to counties due to per diem reimbursement for existing as well as new prisoners. Also provide capital support. Should relieve property tax.

DEPARTMENT OF EDUCATIONAL AND CULTURAL SERVICES

LD 1028 - "An act to improve the laws on school health programs."

Impact - Costs for physician estimated at average of \$1000 per school administrative unit. Since nursing services will be obtained through various methods (full-time, part-time, contract services) costs could not be estimated. Approximately 53% of expenditures will be reimbursed after two years.

LD 1228 - "An act to provide for state certification of school administrators."

Impact - No local cost data available. 113th Legislature provided block grants to \$250 per administration to defray costs, which should cover most if not all costs.

LD 1580 - An act to implement teacher recognition grants and to establish a minimum salary for teachers."

Impact - Direct local costs have been minimal since teacher recognition grants (\$28.6 million over two years) and minimum salary (\$13.5 million FY 87 and \$27 million FY 88) were funded by 112th appropriations. Potential indirect costs of adjustments of local level salary scales to accommodate higher base salaries cannot be fully quantified at this point, but could be significant. These costs will be reflected in future years in school budgets and the Commissioner's Recommended Funding Level for General Purpose Aid.

LD 1585 - An act concerning education programs for gifted and talented children."

Impact - Approximately \$6 million were expended in FY 85-86. The estimate is based on reports by about half of the school districts. Costs will increase at an unknown level until compliance is complete and will be subsidized at a rate of 60% as provided in the School Finance Act.

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

LD 961 - "An act to implement the recommendations of the Maine Land and Water Resource Council Groundwater Review Policy Committee."

Impact - The number of towns this will affect and the cost per town is unknown at this point. An estimate, with a 50% error margin (which makes the number unusable for decision making, it seems) is \$19 million over 9 years or \$2.1 million per year; DEP estimates that the potential legal liability and costs to towns of not building facilities could reach \$50 million so building would likely take place without this legislation.

LD 1655 - "An act to amend certain provisions of the Oil Discharge Prevention and Pollution Control and to establish a new act relating to underground oil storage."

Impact - Reliability factor of estimates impossible to predict. Cost estimated at \$9.4 million over 10 years, or 940 thousand per year to replace. As above, without this legislation tank replacement would probably be done anyway to avoid risk of liability for damages.

LD 1399 - "An act to prohibit open burning at all municipal solid waste disposal sites."

Impact - Undefined costs impractical to obtain and with very high margin of error. If this law had not been passed, the USEPA would have imposed a ban on air emission licenses (and therefore all development) in the State at much greater economic cost to the state.

DEPARTMENT OF THE SECRETARY OF STATE

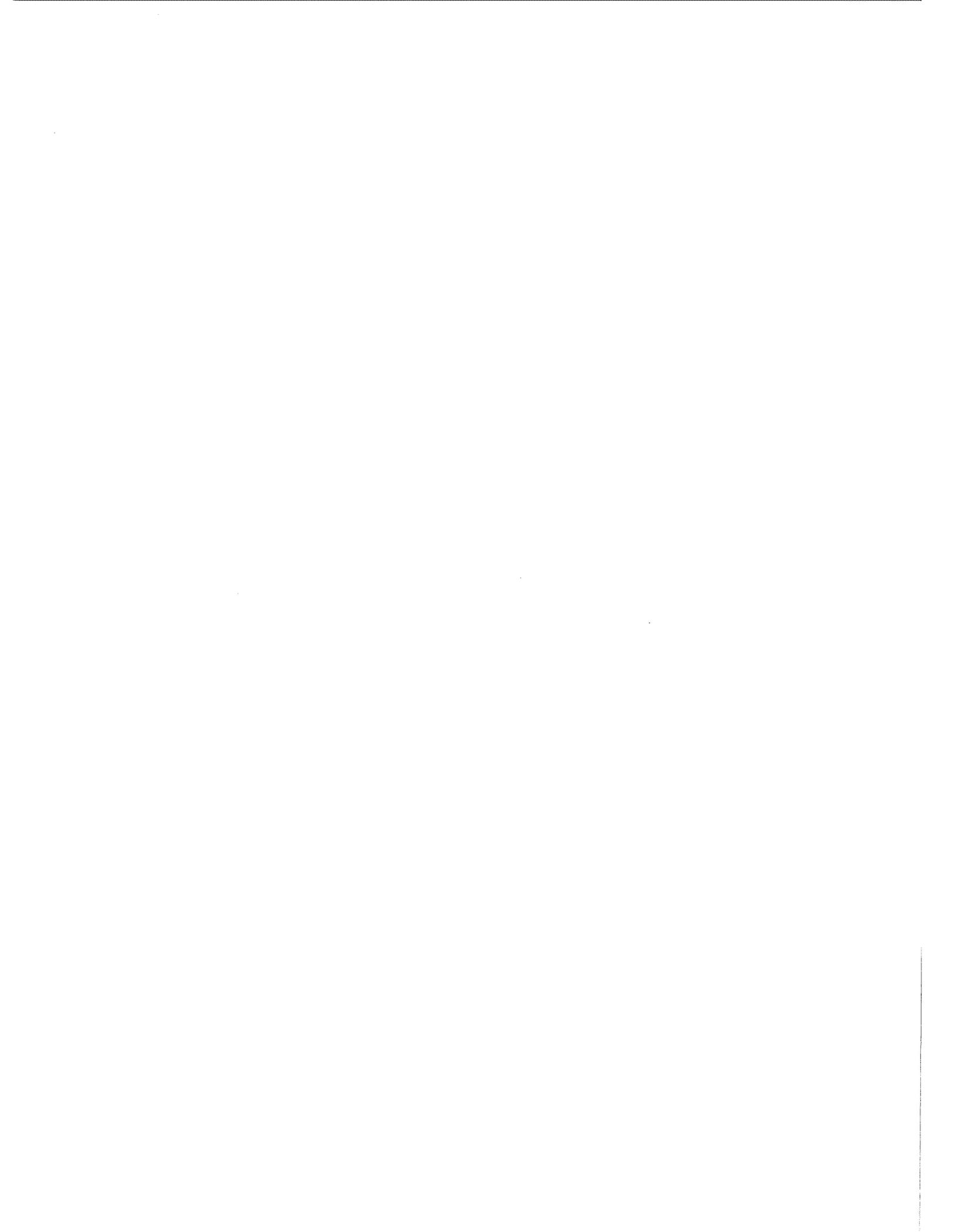
LD 2324 - "An act relating to places of payment of motor vehicle excise tax on leased vehicles."

Impact - Should provide municipalities with \$125,000 which used to be included in General Fund Revenues.

DEPARTMENT OF TRANSPORTATION

LD 1637 - "An act to adjust bridge capital and maintenance responsibilities."

Impact - Clarifies fact that DOT will maintain large bridges and municipalities will maintain small bridges. This will, over a 50 year period, result in cost reduction of 42.4 million for municipalities and 46.7 million for cities, or slightly under \$1 million per year for each.



STATE OF MAINE

Inter-Departmental Memorandum Date October 14, 1987

To Jean E. Mattimore, Commissioner *Sandy* Dept. Finance

From Sandy Tuttle, Assistant to the Commissioner Dept. Finance

Subject Summary of Rules and State Costs

Following is the compilation of responses to your request for a listing of rules promulgated as a result of the 112th Legislature and the cost to municipalities (if the aggregate cost for all municipalities exceeds \$100,000).

- MDOT: The Department issued no rules that resulted in any costs to municipalities.
- DECD: Rules are aimed at administration of grants, therefore no financial impact needing reimbursement.
- Labor: No bills enacted with costs attributed to municipalities.
- Finance: No rules with aggregate costs exceeding \$100,000.
- Public Safety: Responded to Legislative documents, no rules.
- DEP: Responded to LD's; still doing research on rules which may pertain and will forward information as soon as possible (October 8).
- DECS: Rules promulgated; no costs to municipalities.
- IFW: No rules promulgated as result of 112th.
- MR: Requirements for municipalities having Shellfish Conservation Programs: All shellfish growing areas be surveyed to assess standing shellfish stock every 3 years.  
  
Cost does not exceed indicated amount.
- OER: Revised "Energy Conservation Building Standards." Cost calculations not applicable.
- Conservation: Unaware of any statute or rule that results in aggregate cost for all municipalities exceeding \$100,000.
- DHS: No rule that results in costs exceeding \$100,000.
- Corrections: No rules which would have an impact.
- Administration: No Effect
- Agriculture: No effect
- Defense: No effect
- MHMR: No effect.



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October 21, 1987

To: State Mandate Committee  
From: John B. Knox *John B. Knox*  
Re: State-Local Fiscal Analysis

This memo presents a brief analysis of State and local fiscal data pertaining to the Study of State Mandates.

Purpose: To address the following four needs;

1. To respond to the charge of the Legislative Council that the Committee review the trend of property taxes and factors related to property taxes.
2. To allow a look at the total fiscal relationship between State & local government, not just mandates.
3. To substitute for the possible unavailability of specific mandate data.
4. To provide a frame of reference in the event of a decision to acknowledge mandate costs indirectly thru such means as increased revenue sharing.

Methodology

It seemed desirable to use comparative analysis, ie comparisons of current with past data, of State with local data and of State data with other states. The only source for comparative local data and the best source for comparative state data is the Governmental Finances publication of the Bureau of the Census and that is the source document for the great majority of the data analyzed. The use of this source has necessitated two constraints:

1. The most recent local data available is for FY 1985. Thus, State-Local comparisons are made using 1985 data.

2. The most recent data available for other New England states is FY 1986. Thus, even though Maine data is available for FY 1987, the comparisons between Maine and other states is based on fiscal 1986.

It should be noted that the only local government data readily available is for the whole State. Such data may well mask wide variations between regions of the State.

Findings:

1. When compared with other states, the extent of Maine state aid to municipalities is above average.
2. When compared to the beginning of this decade the extent of Maine state aid to municipalities is less than it used to be.
3. A comparison of Maine 1980 to Maine 1986 is a more valid comparison than Maine 1986 with other New England states. Based on point 2 above, it thus appears that the issue of improving the financial position of municipalities justifies further study.

Supporting Analysis:

I. Comparison of Maine with other New England States

- A. The following points support a conclusion that the participation of the State in the fiscal affairs of the municipalities is at an above average level.
  1. Local municipalities get a greater share of their revenues from the State than is true of any New England state except Massachusetts.
  2. Maine's local revenue raised per dollar of disposable income is lower than any New England state except Massachusetts.
  3. Maine's state revenue raised per dollar of disposable income is higher than any other New England State.
  4. Only Massachusetts exceeds Maine in the percent of state expenditures going to local governments. (Connecticut is equal to Maine).
  5. As of 1985 Maine's property tax rate on single family FHA mortgaged homes was the lowest of the New England States. (Data on Vermont is not available.)
  6. Local revenue from interest earnings is lower in Maine than any other New England state.

B. The following conflicts with a conclusion that State participation in the fiscal affairs of the municipalities is above average in Maine.

1. The percent of local revenue produced by current charges (hospitals being the leading component) and misc. revenue is higher in Maine than any other New England state.

## II. Comparison of 1985 financial data with 1980

A. Analysis that would support a program to increase local revenue by means other than the property tax:

1. Maine local property taxes are increasing more rapidly than any New England state except New Hampshire.
2. Maine state expenditures and state taxes are increasing less rapidly than any other New England state.
3. The State's share of local revenues is decreasing and is doing so at a greater rate than all but 1 other New England state, although this trend did reverse itself from 1985 to 1986.
4. The growth of federal revenue to the state in Maine is much greater than any other New England state and much greater than the growth of federal revenues to local governments in Maine.
5. Maine's local per capita revenues per dollar of income is increasing more rapidly than any other New England state.
6. Local revenue from current charges and miscellaneous revenue including interest income is increasing more rapidly than in any other New England state.

B. Analysis which would not support more local revenue:

1. In Maine own source state tax revenues are increasing more rapidly than local taxes. However, this is true of all other New England states except New Hampshire.
2. The change in Maine's local tax base thru 1985 generally kept pace with the change in local expenditures. However, the average municipal mill rate declined during that period.

Table 1  
State Expenditures  
(see note)

	% Change		% of Total '86	%age Point Change in % of Total	
	'80 - '86	'85 - '86		'80 - '86	'85 - '86
	%	%	%	%	%
Maine					
Total Expenditures	62.6	10.7	100.0	0.0	0.0
To Local Gov't.	41.1	13.9	19.5	-3.0	0.5
Direct Expenditures	69.1	10.0	80.2	3.1	-0.5
Connecticut					
Total Expenditures	98.9	22.4	100.0	0.0	0.0
To Local Gov't.	71.2	7.5	17.3	-2.8	-2.4
Direct Expenditures	106.0	26.1	82.7	2.8	2.3
Massachusetts					
Total Expenditures	84.1	22.4	100.0	0.0	0.0
To Local Gov't.	61.0	11.6	23.8	-3.4	-2.3
Direct Expenditures	95.0	26.4	75.3	4.1	2.3
New Hampshire					
Total Expenditures	68.4	25.3	100.0	0.0	0.0
To Local Gov't.	26.9	5.8	11.7	-3.8	-2.1
Direct Expenditures	76.0	28.5	88.3	3.8	2.1
Rhode Island					
Total Expenditures	80.8	22.4	100.0	0.0	0.0
To Local Gov't.	60.1	17.1	13.8	-1.7	-0.6
Direct Expenditures	84.7	23.4	85.9	1.9	0.7
Vermont					
Total Expenditures	87.3	22.4	100.0	0.0	0.0
To Local Gov't.	42.5	7.4	11.9	-3.8	-1.7
Direct Expenditures	95.8	24.9	87.4	3.8	1.7

Source: U.S. Bureau of the Census, "Governmental Finances", various years.

Note: 1986 data is subject to revision.

BD/SLG/jj/2379\*

Table 2

## Local and State Revenues

	Maine	Connecticut	Massachusetts	New Hampshire	Rhode Island	Vermont
<b>%AGE FROM EACH SOURCE: FY '85</b>						
Local Revenue From:						
State	29.2%	22.4%	30.5%	11.3%	25.5%	21.0%
Federal	7.2	4.5	8.1	7.5	7.0	5.6
Taxes	45.2	54.1	35.5	67.4	54.3	51.8
Non Tax, Own Source	18.4	19.0	25.9	13.8	13.2	21.6
Total Revenue	100.0	100.0	100.0	100.0	100.0	100.0
State Revenue From:						
Federal	26.4	17.0	20.8	22.6	21.4	27.2
Taxes	47.0	55.8	57.6	31.9	41.4	41.4
Non Tax, Own Source	26.6	27.2	21.6	45.5	37.2	31.4
Total Revenue	100.0	100.0	100.0	100.0	100.0	100.0
<b>%AGE POINT CHANGE FY '80 - '85</b>						
Local Revenue From:						
State	-2.1	2.1	5.4	5.4	0.5	0.5
Federal	-3.6	-2.1	-3.4	-2.6	-3.6	-3.6
Taxes	0.8	-3.0	-9.5	8.2	0.4	-1.4
Non Tax, Own Source	4.9	2.9	7.5	-0.1	2.5	4.4
Total Revenue	0.0	0.0	0.0	0.0	0.0	0.0
State Revenue From:						
Federal	-3.9	-6.2	-4.7	-4.3	-4.1	-6.9
Taxes	0.9	2.8	4.9	2.0	0.9	3.9
Non Tax, Own Source	3.7	3.7	0.5	2.1	2.3	2.9
Total Revenue	0.0	0.0	0.0	0.0	0.0	0.0
<b>% CHANGE FY '80 - '85</b>						
Local Revenue From:						
State	43.4%	78.3%	61.9%	-1.3%	48.5%	55.4%
Federal	2.6	8.5	-5.6	8.7	-3.7	-7.5
Taxes	55.9	52.5	5.0	66.7	46.3	47.7
Non Tax, Own Source	108.4	90.2	87.9	45.4	79.5	90.1
Total Revenue	53.3	60.8	33.3	46.5	45.1	51.5
State Revenue From:						
Federal	51.0	32.5	25.6	27.8	28.6	24.6
Taxes	77.9	90.1	68.6	62.2	56.5	72.2
Non Tax, Own Source	100.5	108.5	58.3	59.9	63.2	72.3
Total Revenue	74.5	80.5	54.0	52.2	52.8	56.0

Source: U.S. Bureau of the Census, "Governmental Finances", various years.

BD/SLG/jj/2379-2\*

Table 3

State and Local Per Capita Revenues  
and Revenues for \$1000 of Disposable Income

	Maine	Connecticut	Massachusetts	New Hampshire	Rhode Island	Vermont
<u>LOCAL REVENUES</u>						
<u>FY '85</u>						
Per Capita	\$ 464	\$ 714	\$ 578	\$ 692	\$ 588	\$ 535
% Change FY '80-'85	51%	49%	3%	54%	43%	41%
Per \$1,000 of Disposable Income	\$44.90	\$46.50	\$42.20	\$52.20	\$48.20	\$51.50
% Change FY '80-'85	5%	1%	-32%	9%	-3%	-1%
<u>STATE REVENUES</u>						
<u>FY '85</u>						
Per Capita	\$ 864	\$ 1102	\$ 1137	\$ 435	\$ 891	\$ 857
% Change FY '80-'85	57%	86%	66%	50%	53%	64%
Per \$1,000 of Disposable Income	\$71.80	\$83.60	\$82.90	\$32.80	\$72.90	\$82.60
% Change FY '80-'85	23%	10%	8%	6%	4%	16%

Source: U.S. Bureau of the Census, "Governmental Finances", various years. U.S. Bureau of the Census, "Current Population Reports", series P-25, No. 957, press release (CB85-229), and unpublished data. U.S. Department of Commerce, "Survey of Current Business", August, 1986.

Table 4

## Local Tax Data and Expenditures

<u>Year</u>	<u>Average Local Tax Base</u> <u>(millions of dollars)</u>	<u>Average Municipal Mill Rate</u>	<u>Total Local Expenditures</u> <u>(millions of dollars)</u>
1985	\$26,369.4	.0190	\$1,172.4
% Change 1980-85	45.5%	-2.1%	46.9%

Source: Maine Bureau of Taxation, "Municipal Valuation Return Statistical Summary", 1985.

BD/SLG/jj/2379-3\*

TABLE - 5

AVERAGE EFFECTIVE PROPERTY TAX RATES,  
EXISTING SINGLE FAMILY HOMES WITH FHA INSURED MORTGAGES,  
BY STATE, SELECTED YEARS 1980 - 85

<u>State</u>	<u>Percentage of Full Market Value</u>			
	<u>1985</u>	<u>1984</u>	<u>1982</u>	<u>1980</u>
Connecticut	1.64	1.68	1.60	1.55
Maine	1.28	1.31	1.52	1.25 1)
Massachusetts	1.33	1.57	1.85	2.51
New Hampshire	1.87	2.02	2.23	1.73 2)
Rhode Island	2.08	n.a.	2.01	1.93
Vermont	n.a.	n.a.	n.a.	n.a.

1) Fourth quarter of 1977 increased to 1980 on the basis of the U.S. average percentage change.

2) Based on 1974 (latest year readily available), increased to 1980 on the basis of the U.S. average percentage change (75%) and the 1977 Census of Governments, "Taxable Property Values and Assessments/Sales Price Ratios" (25%).

Source: Significant Features of Fiscal Federalism, various years. Table 69, pg. 107, 1985-86 Edition.

BD/SLG/jj/1440-6\*  
2444\*

Table 6

Non-Tax, Own-Source Local Revenue,  
Source as a Percent of Total Local Revenue

	Maine	Connecticut	Massachusetts	New Hampshire	Rhode Island	Vermont
<b>%AGE FROM EACH</b>						
SOURCE: FY '85						
Total Revenue	\$1,195.9	\$4,188.9	\$9,493.2	\$1,024.3	\$1,048.3	\$551.7
Current Charges	9.5%	6.5%	8.5%	7.2%	4.6%	5.4%
Education	1.3%	1.1%	0.9%	1.7%	0.2%	1.3%
Hospitals	2.5%	0.8%	3.1%	0.0%	0.0%	0.0%
Misc. Revenue	5.3%	4.2%	3.6%	3.8%	3.8%	4.4%
Int. Earnings	1.6%	2.7%	2.2%	1.9%	2.2%	2.3%
Employee Retirement						
Trust Fund	0.0%	2.3%	3.3%	0.1%	1.7%	0.3%
Utility Revenue	3.6%	6.0%	10.4%	2.8%	3.0%	11.5%
<b>%AGE POINT CHANGE</b>						
FY '80 - '85						
Current Charges	2.4	0.4	2.3	-0.2	0.9	0.8
Education	-0.2	-0.5	-0.1	-1.1	-0.2	-0.2
Hospitals	1.6	0.3	0.3	-0.1	0.0	0.0
Misc. Revenue	2.1	-0.7	1.1	-0.1	0.9	0.5
Int. Earnings	0.5	-0.4	0.4	0.2	0.2	0.2
Employee Retirement						
Trust Fund	0.0	0.9	0.4	0.0	0.6	0.0
Utility Revenue	0.4	2.3	3.7	0.2	0.2	3.0
<b>% CHANGE</b>						
FY '80 - '85						
Total Revenues	53.3%	60.8%	33.3%	46.5%	45.1%	51.5%
Current Charges	104.1%	72.5%	81.6%	41.8%	78.2%	78.6%
Education	33.9%	12.4%	24.8%	-12.6%	-26.1%	35.2%
Hospitals	335.3%	141.2%	47.3%	-100.0%	0.0%	0.0%
Misc. Revenue	152.2%	37.5%	93.5%	44.6%	90.0%	69.7%
Int. Earnings	126.2%	40.7%	62.6%	59.7%	61.3%	64.5%
Employee Retirement						
Trust Fund	0.0%	171.8%	51.1%	200.0%	131.2%	66.7%
Utility Revenue	73.5%	160.5%	107.4%	57.5%	54.4%	105.5%

Local Utility Expenditures as a Percent  
of Local Utility Revenue

	Maine	Connecticut	Massachusetts	New Hampshire	Rhode Island	Vermont
1985	118.6%	116.1%	177.5%	118.9%	93.4%	144.9%
1980	218.0%	102.6%	236.2%	111.0%	113.6%	111.0%

State of Maine  
 History of Revenue Sharing with Cities and Towns  
 From Inception through State Fiscal Year 1987

Fiscal Year	Revenue Sharing	Percent Increase	Total Undedicated Revenue	Revenue Sharing % of Undedicated Revenue	Budgeted Undedicated Revenue	Over/(under) Budget	Unanticipated Revenue Sharing
1973	\$5,212,996		\$234,312,496	2.2%	\$212,097,377	22,215,119	494,243
1974	6,531,777	25.3%	254,823,637	2.6%	248,957,602	5,866,035	150,361
1975	8,008,512	22.6%	294,987,321	2.7%	281,061,322	13,925,999	378,072
1976	9,207,694	15.0%	448,664,055	2.1%	448,163,480	500,575	10,273
1977	9,886,559	7.4%	383,446,553	2.6%	370,981,678	12,464,875	321,387
1978	12,711,661	28.6%	433,756,750	2.9%	421,682,819	12,073,931	353,838
1979	14,088,266	10.8%	470,490,030	3.0%	448,007,590	22,482,440	673,210
1980	15,607,966	10.8%	522,273,861	3.0%	515,761,793	6,512,068	194,611
1981	17,933,191	14.9%	578,954,080	3.1%	558,054,854	20,899,226	647,357
1982	19,777,206	10.3%	639,916,836	3.1%	636,032,547	3,884,289	120,047
1983	21,819,013	10.3%	677,506,114	3.2%	689,107,802	(11,601,688)	(373,631)
1984	26,005,372	19.2%	774,768,162	3.4%	770,056,808	4,711,354	158,131
1985	36,317,735	39.7%	848,218,341	4.3%	845,611,229	2,607,112	111,627
1986	42,247,561	16.3%	948,570,406	4.5%	941,553,466	7,016,940	312,521
1987	50,376,338	19.2%	1,117,578,386	4.5%	1,034,359,076	83,219,310	3,751,222
15 years	\$295,731,847		\$8,628,267,028	3.4%	\$8,421,489,443	\$206,777,585	\$7,303,277
Percent Change	866.4%		377.0%				

Controller's Office  
 Date: 10/20/87  
 File: revsh

State of Maine  
 Revenue Sharing and Education Aid to Cities and Towns

Fiscal Year	Actual Increase	Increase for Inflation	Difference	-- Percent Change --		
				Actual	for Inflation	Difference
1973 (Base Yr)			0			
1974	(3,668,802)	6,404,012	(10,072,814)	-5.0%	8.8%	-13.8
1975	49,998,886	9,659,578	40,339,308	72.4%	12.2%	60.2
1976	5,019,949	6,218,552	(1,198,603)	4.2%	7.0%	-2.8
1977	39,791,214	4,562,640	35,228,574	32.1%	4.8%	27.3
1978	11,927,409	6,774,000	5,153,409	7.3%	6.8%	0.5
1979	14,210,130	9,575,248	4,634,882	8.1%	9.0%	-0.9
1980	23,910,509	15,423,596	8,486,913	12.6%	13.3%	-0.7
1981	21,435,619	16,292,420	5,143,199	10.0%	12.4%	-2.4
1982	37,472,321	13,143,779	24,328,542	15.9%	8.9%	7.0
1983	20,937,940	6,272,241	14,665,699	7.7%	3.9%	3.8
1984	27,375,700	6,349,759	21,025,941	9.3%	3.8%	5.5
1985	29,017,771	6,937,947	22,079,824	9.0%	4.0%	5.0
1986	68,666,409	6,854,692	61,811,717	19.6%	3.8%	15.8
1987	38,452,433	2,059,655	36,392,778	9.2%	1.1%	8.1
15 years	\$384,547,488	\$116,528,119	\$268,019,369			
Percent	100.0%	30.3%	69.7%			

35-

Controller's Office  
 Date: 10/20/87  
 File: locaid2

STATE AID TO MUNICIPALITIES  
(MILLIONS OF DOLLARS)

	ACTUAL						BUDGETED		
	1981	1982	1983	1984	1985	1986	1987	1988	1989
<u>General Government</u>									
State Local Revenue Sharing	17.9	19.7	21.6	27.6	35.7	41.4	49.6	51.4	56.0
Tax Relief for the Elderly	6.2	6.1	6.2	5.9	5.8	5.5	5.4	5.9	5.9
(1) Inventory Tax Reimbursement	5.7	4.3	2.9	-	-	-	-	-	-
Tree Growth Tax	.5	.5	.5	.5	.7	.6	.3	.6	.6
Veterans' Reimbursement	-	.1	.2	.2	.2	.2	.2	.2	.2
County Reimbursement	-	-	-	-	-	-	-	-	-
Payment in Lieu of Taxes	-	-	-	-	.5	.3	.2	-	-
Sub Total	30.3	30.7	31.4	34.2	42.9	48.0	55.7	58.1	62.7
<u>Education</u>									
General Purpose Aid	193.1	204.5	220.6	237.4	254.2	294.0	309.6	343.4	406.8
Other Local School Program	1.4	1.3	1.3	1.4	1.3	1.5	1.5	1.6	1.7
Teacher Retirement	29.8	47.3	50.1	56.5	58.4	66.7	68.6	78.9	117.8 (3)
Teacher Recognition Grant	-	-	-	-	-	14.4	27.3	27.0 (2)	-
Energy Conservation - Public Schools	1.3	2.0	1.7	.1	.3	.3	-	-	-
<u>Human Services</u>									
General Assistance	1.8	2.1	3.9	5.8	7.5	6.7	6.9	7.2	7.4
<u>Environmental Protection</u>									
Wastewater Treatment Facilities	6.2	5.8	5.2	6.4	4.5	5.5	10.3	13.0	-
<u>Highway</u>									
Local Aid Programs	12.3	3.1	13.8	15.1	15.7	16.3	17.3	16.6	16.5
Total	276.2	296.8	328.0	356.9	384.8	453.4	497.2	545.8	612.9

State Teachers' Stipend - Included under Teachers' Recognition Grant.

School Construction Assistance 15.1 14.9 15.7 15.8 16.2 16.5 20.3 20.3 20.3  
(Included in G.P.A. totals)

School Subsidy in General - Same as General Purpose Aid.

Sewerage Treatment Facilities - Same as Wastewater Treatment Facilities.

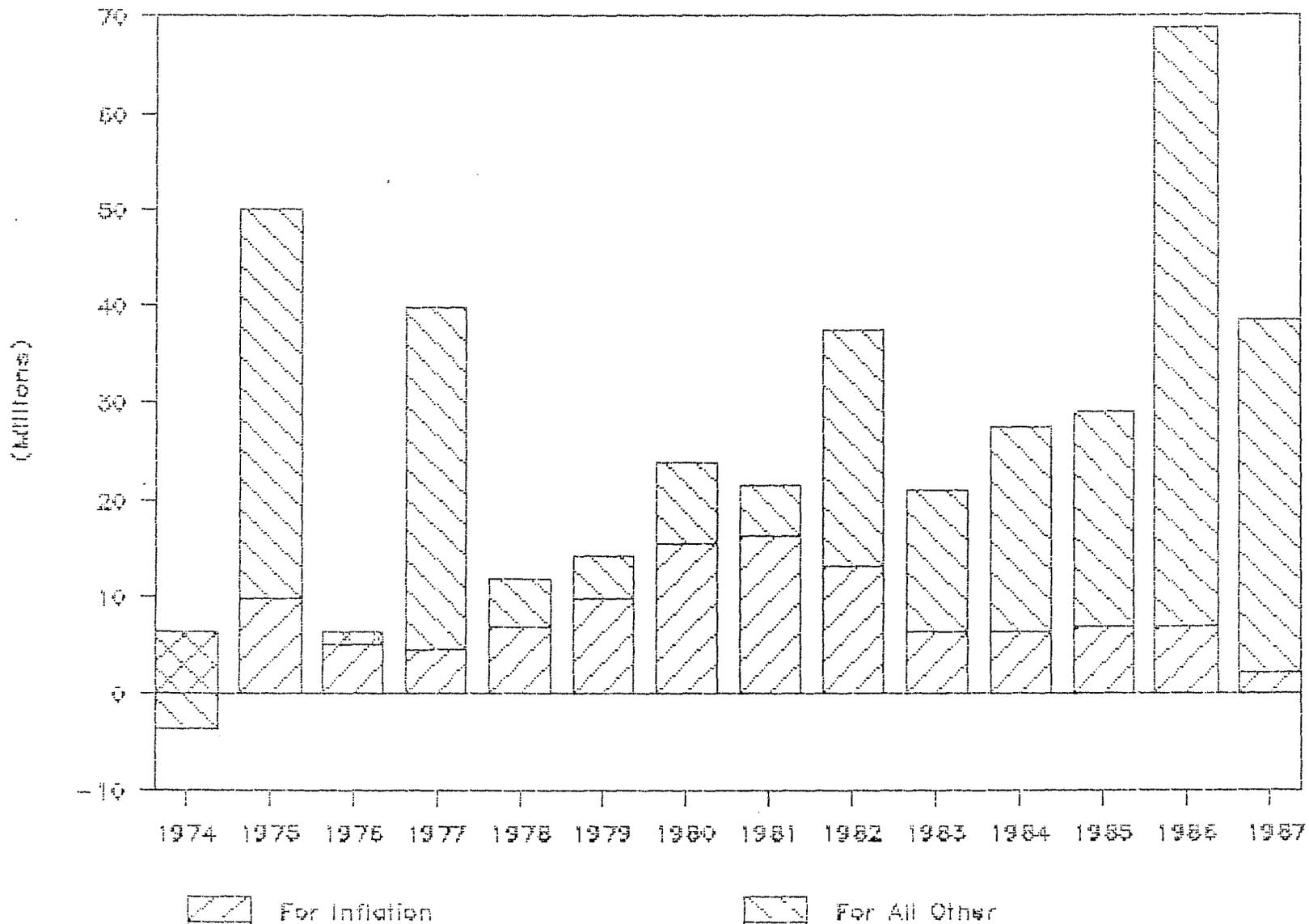
(1) Increase Local Revenue Sharing by \$237,000/month or \$2.844 million to cover Inventory Tax Reimbursement.

(2) Teachers Recognition Grants become part of G.P.A. after FY 88.

(3) Part II established a \$36.1 million Retirement Reserve for FY88 and FY89.

# STATE OF MAINE

Annual Increase in Local Aid



## TESTIMONY

## MAINE MUNICIPAL ASSOCIATION

## SUBCOMMITTEE ON REIMBURSEMENT FOR STATE-MANDATED PROGRAMS

SEPTEMBER 9, 1987

Senator Tuttle, Representative Carroll, Members of the Subcommittee on Reimbursement for State-Mandated Programs, my name is Kathryn Ludwig and I am testifying in place of Kay Rand on behalf of the Maine Municipal Association. Kay's attendance was required at the last minute at an MMA Executive Committee meeting and she apologizes for her inability to attend this session. I am the Assistant Director of State and Federal Relations at MMA and am pleased to be able to present our testimony and the results of our examination of the laws enacted by the 112th Legislature.

The mere mention of the words "state mandate" causes virtually every municipal official to bristle with indignation. At a time when the public is clamoring for fiscal constraint, municipal officials find themselves in the position of having to increase local property taxes to pay for the priorities of state government and the federal government. In this year alone, municipalities are struggling to finance expensive state-mandated education reforms at the very same time they are grappling with the repeal of Federal Revenue Sharing, an annual loss in Maine of close to \$29 million. The complete cessation of federal funds has not, however, slowed down the proliferation of federal mandates, as Congress continues to involve itself in the affairs of local governments.

Taxpayer frustration most often seems focused on the property tax. Proposition 13 in California, Proposition 2 1/2 in Massachusetts were aimed at the property tax. This taxpayer frustration in turn frustrates municipal officials. They feel that they are being unfairly targeted for blame which should also be shouldered by the state and federal government "mandators." Municipal officials become particularly frustrated, and even hostile, when they are forced to listen to claims by federal and state political leaders that they have created budgets which meet the needs of their respective governments without the necessity of a tax increase. Those claims are false. Municipal officials can point to property tax increases necessitated by state and federal priorities that simply were passed on to local governments to fund.

As we speak, Congress is considering a number of tax measures aimed at reducing the federal deficit. Two of those measures would pass extremely high costs on to cities and towns. One would require that all local government employees be covered by Medicare, imposing costs on both the local government employer and employee. Another would subject all municipal vehicles, such as police cruisers, fire trucks and ambulances, to the federal gas tax. It seems that these taxes are politically easier to enact since they simply pass costs on to another level of government to collect.

A state mandate has typically been defined as any state constitutional, statutory or administrative action that either limits or places additional requirements on local governments. State mandates range over a considerable area of local government activities. Our analysis of laws enacted by the 112th Legislature demonstrates this point. Educational mandates certainly took center stage most recently, but environmental mandates, ranging from the enforcement of state land use laws to expensive solid waste requirements, have consistently been increasing in Maine over the past decade.

Some state mandates do not impose new costs. Even so, they may be viewed as an unwarranted intrusion into local affairs because they restrict the decision-making authority of local government officials. State mandates can be, and often are, used as a political football in special interest groups. Rebuffed at the local level, they may use the State Legislature as a hunting ground to capture for themselves or their constituencies a larger slice of local expenditures. Municipal officials especially resent this kind of "end run." Examples include a group of retired municipal employees seeking mandated cost-of-living adjustments to their local pensions, a group of firefighters seeking stiffer requirements for protective firefighting gear, county extension agents asking the Legislature to mandate county support for their services, or local historical societies seeking forced municipal maintenance of old private cemeteries. These examples are real and many more could be provided.

So the central issue has always been one of cost. Another important issue is whether the proposed mandate is of sufficient statewide importance to warrant state intrusion or, put another way, to warrant the elimination of flexibility at the local level.

The issue of state mandates is not a new one. Thirty-six states have already struggled with it and have legislated a variety of solutions. The Maine Municipal Association analyzed them for the State Government Committee in a report dated September, 1985. In summary, eighteen states require fiscal notes on legislation that might affect local government revenues or expenditures. Ten other states combine fiscal note provisions with constitutional or statutory provisions which require reimbursement, funding or establishment of a funding mechanism for some or all state mandates. Six states have in place constitutional or statutory provisions which require reimbursement, but have no fiscal note requirement. Iowa has a unique provision which requires the preparation of a fiscal note and the identification of all new and existing state mandates, but not reimbursement or funding. Connecticut requires that bills and amendments which have been identified as state mandates be reviewed by the Appropriations Committee subsequent to review by the Committee which had reported the bill.

MMA, in 1979, brought to the Legislature a bill that would require the preparation of a fiscal note, or fiscal impact statement on any bill that imposed a new cost on local governments, school administrative units or counties. As enacted, the law today simply requires the preparation of a fiscal note "within the limits of information provided to the legislative finance officer" (3 MRSA §167). MMA has used this provision on a couple of occasions.

MMA has historically supported bills that have been introduced requiring the Legislative Finance Office, now the Office of Fiscal and Program Review, to prepare fiscal notes on bills that impose costs on local governments, schools and counties. Those bills always carry a substantial fiscal note themselves, the last one having totaled in excess of \$300,000 just to develop the data base and capacity to analyze those costs for both legislative bills and administrative rules. MMA does not recommend to you that fiscal notes continue to be pursued. The reality is that the expense of developing the capacity within state government to prepare fiscal notes potentially outweighs the benefits.

Whenever fiscal information on how a bill will affect local governments is provided to a committee, it generally influences their reaction to the bill. Legislators have been very cognizant of the issue of mandates and have been reluctant to pass costs on to local governments, when those costs can be analyzed. MMA is developing the computer capacity, or municipal data bank, that will enable us to take advantage, more and more often, of the fiscal note provision that exists in the statutes today. \$300,000 seems like a lot of money to spend to have the state able to prepare fiscal notes that may or may not be better than information already provided committee members by organizations such as MMA, Maine School Management Association or the Maine County Commissioners Association.

MMA is intrigued, however, by the Connecticut requirement that state mandates enacted by the House go to a Special Local Government Appropriations Table in the Senate for further review prior to enactment. Such a provision in the joint rules of the Maine Legislature would focus more attention on bills that impose costs and could help legislators prioritize all the mandates at the end of the session and review whether each and every one of them warrants the passed-on costs or the loss of local flexibility. Enacting mandates one at a time loses the focus that is probably necessary to curb further state mandates without corresponding state funding. Our first recommendation to you is to consider adopting a provision similar to the Connecticut provision here in Maine. A two-thirds vote could be required for approval of legislation mandating expenditures to local governments, school administrative units or counties.

Governor Dukakis of Massachusetts has recently issued an executive order that requires state agencies to consult with the Department of Community Affairs and the Massachusetts Municipal Association to inform and receive advice from local governments on the potential impact of the proposed action on local governments. No rule impacting local governments can become effective until the consultation procedures prescribed by the executive order are complied with. MMA strongly recommends that a similar provision be considered for Maine, either through recommended legislation or executive order.

The issue of reimbursement carries with it a number of very complicated issues. The first problem is to define "state mandate." Does it include agency rules and does it include state laws or rules that are in turn mandated by the federal government? Does it include executive orders, state or federal court orders or mandates imposed as the result of a voter approved initiative?

Once the difficulty of defining state mandates is completed, the other issues you will have to grapple with include defining who is eligible for reimbursements -- just local governments, or schools and counties, as well? Will the reimbursement be 100% or another percentage? Should there be a threshold before reimbursement is necessary? Should there be an appeals process to enable political subdivisions to petition the state for increased reimbursement or for reimbursement in an area not previously identified as a state mandate?

From MMA's perspective, there are obviously preferred answers to all of these questions. We strongly believe that reimbursement should be provided for agency rules as well as legislation and that it should be provided to municipalities, school administrative units and counties. The level of reimbursement should be at least 50%, consistent with our current Constitutional provision requiring at least 50% reimbursement for taxes lost due to a new or expanded property tax exemption. The threshold issue is a complicated one. If a threshold is recommended, it should contain a provision that no single municipality could be affected by a cost greater than 10% of their prior year's tax commitment, even if the total impact did not reach the threshold level. An appeals process is absolutely necessary in MMA's opinion.

Reimbursement of state mandates is an important principle to legislate. MMA strongly recommends that some level of mandatory process of reimbursement be established. From discussions with our counterparts in other states, we have become convinced that a process such as that used in Rhode Island should be considered for adoption in Maine. In Rhode Island, the burden for identifying which new laws impose costs and how much is on the municipalities. A presentation is made to some sort of decision-making state authority and if it is decided that mandate has been created, requests for funding are submitted to a succeeding Legislature. Many other states have all kinds of derivations on the reimbursement concept. MMA reviewed all state programs in its 1985 report which we would be happy to make available to you if it has not already been provided.

A review of the list of mandates enacted by the 112th Legislature reveals some interesting points which I would like to make in closing. First of all, mandates cover a variety of areas as anticipated. The most costly ones are in the education and environmental areas. Many new laws that impose costs are watered-down versions of the bill they originated from, verifying our belief that the Legislature is concerned about the issues of mandates. It is also apparent that succeeding Legislatures tend to modify a mandate passed by a previous Legislature that proved to be a major irritant over a minor matter. See especially the new laws on polling times (LD 1540); voting requirements (LD 1603); shellfish ordinances (LD 51); tax bills (LD 1551); and general assistance (LD 786).

Municipalities are the lowest level of government and often find that the "buck stops there." MMA encourages this Committee to make strong and significant recommendations that will capitalize on the awareness already created in the Legislature around the issue of mandates, and will take the final step that needs to be taken -- that is, to have the state pay at least a portion of the costs for the create a process for more detailed and focused scrutiny of mandates before they are enacted.

Thank you very much for this opportunity to testify on this topic of critical importance to municipalities. I'd be happy to try to answer any of your questions.



U. S. G E N E R A L A C C O U N T I N G O F F I C E  
R E V I E W O F C O S T E S T I M A T I N G A N D  
M A N D A T E R E I M B U R S E M E N T P R O G R A M S

TENTATIVE FINDINGS SUBJECT TO MODIFICATION  
UPON COMPLETION OF REVIEW

Human Resources Division  
May 19, 1987

G A O

O B J E C T I V E S

\* Overall Objective

--Assess potential effectiveness of cost estimation and mandate reimbursement in reducing unfunded federal mandates.

\* Cost Estimation

--Analyze and compare strategies and impacts of federal & State processes.  
--Provide input for reauthorization of the State & Local Cost Estimate Act.

\* Mandate Reimbursement

--Assess state experiences with mandate reimbursement.  
--Apply lessons learned for federal level.

G A O  
S C O P E   A N D   M E T H O D O L O G Y

\*Federal Level

- Reviewed cost estimation strategies at CBO
- Assessed impact by talking with Congressional staff and Public Interest Groups.

\*State Level

- Visited 8 states to assess estimation and reimbursement activity.
- Sent questionnaires to 50 states.
  - state officials (*various - key body*)
  - legislative leadership
  - public interest groups representing local governments

TENTATIVE FINDINGS ON COST ESTIMATION

FEDERAL & STATE COST  
ESTIMATION CHARACTERISTICS

\*Similar features of federal and state processes.

- Estimation units have higher priority activities.
- Estimates do not receive a high level of attention in the legislature.
- Time available to prepare the estimates is limited.
- Legislation subject to estimates covers many subject areas and levels of complexity.
- Data collection is informal and nonsystematic.

\*Different features of federal and state processes.

- CBO estimates are for bills reported from full committee; some states prepare estimates at a different point in the process.
- CBO does not update estimates for amendments; some states provide updates.
- CBO does not consider tax or spending bills; most states include these bills.
- CBO is a legislative agency; many states use different types of organizations to prepare estimates.

\*Observations

- Cost estimation is a constraint driven process.
- CBO's approach is consistent with the state approaches.

TENTATIVE FINDINGS ON COST ESTIMATION

O U T C O M E S O F C O S T E S T I M A T E P R O C E S S

\*Cost estimates make potentially useful information available, however, little use is made of this information.

\*Estimates generally do not deter or modify mandates.

--Mandating governments do not have to pay for mandated costs.

--Policy and programmatic issues are often of greater concern to legislators than mandate cost burdens.

\*Some limited impact when certain factors are present.

--Presence of reimbursement requirement.

--Strong legislative interest.

--Use by public interest groups.

\*Observation

-- If the policy goal is to deter or modify mandates, cost estimation alone is not an effective approach.

TENTATIVE FINDINGS ON REIMBURSEMENT

CHARACTERISTICS OF STATE  
MANDATE REIMBURSEMENT PROGRAMS

\*1/3 of the 50 states have a reimbursement requirement.

\*State reimbursement programs vary.

--Some states have a statutory basis for the requirement, some have a constitutional basis.

--Some states pay for increases in costs while others pay for increases in service levels.

--Some states exclude certain types of mandates from reimbursement, while others do not have such exclusions.

--Most states specifically permit the legislature to ,  
override the reimbursement requirement on a case by case basis, some states do not.

--Some states provide up-front funding, whereas other states reimburse for actual costs.

--Some states permit local non-compliance in the absence of funding, some states do not.

--Some states allow for a local appeals process prior to litigation.

TENTATIVE FINDINGS ON REIMBURSEMENT

OUTCOMES OF STATE MANDATE  
REIMBURSEMENT REQUIREMENTS

\*Expected outcomes

- Deter passage of mandates
- Modify mandates
- Provide funding for mandates

\*3 of 6 states experienced some impact.

- Modification key impact in 2 of the 3 states.
- Funding is primary impact in CA but many unfunded mandates are still imposed.
- Creation of a new legal basis for locals to challenge the enforcement of state mandates.

\*3 of 6 states experienced no impact.

TENTATIVE FINDINGS ON REIMBURSEMENT

FACTORS AFFECTING OUTCOMES  
OF STATE REIMBURSEMENT PROGRAMS

\*External factors

- Fiscal condition of the state.
- Level of legislative commitment.
- Court interpretations.

\*Process factors

- ①--Strength of legal basis for the reimbursement requirement.
- ②--Clarity and specificity of mandate definition.
- ③--Availability of optional compliance for local governments.
- ④--Level of knowledge at state and local level concerning the requirement and rights.

\*Observation

- Many of the key factors affecting the success of reimbursement are external to the process.

TABLE 1

STATES WITH GENERAL MANDATE REIMBURSEMENT REQUIREMENTS

<u>State</u>	<u>Year Effective</u>	<u>Legal Basis (Constitutional, or Statutory)</u>	<u>Who Initiated (Voters, Legislature Local Government)</u>
<u>California</u>	1973	statutory	legislature
	1980	constitutional	voters
<u>Colorado</u>	1981	statutory	legislature
<u>Florida</u>	1978	statutory	legislature
Hawaii	1979	constitutional	constitutional convention
<u>Illinois</u>	1981	statutory	legislature and local government
<u>Massachusetts</u>	1981	statutory	voters
<u>Michigan</u>	1979	constitutional	voters
Missouri	1980	constitutional	
Montana	1974	statutory	
New Hampshire	1984	constitutional	constitutional convention
New Mexico	1984	constitutional	voters
Rhode Island	1979	statutory	local government
<u>Tennessee</u>	1978	constitutional	legislature
Washington	1980	statutory	voters

**NOTE:** Underlined states above were included in GAO's fieldwork.

Source: Review of Cost Estimating & Mandate Reimbursement Programs, U. S. General Accounting Office, 1987

Table 2

DEFINITIONS OF PROGRAM COVERAGE

<u>State</u>	<u>Program Definitions</u>	<u>Covers</u>	<u>Specific</u>	<u>Specific</u>
	<u>Covers</u>	<u>Legislation</u>	<u>Exclusions</u>	<u>Legislative</u>
	<u>New/Increases</u>	<u>Regulation</u>	<u>To</u>	<u>Exemption</u>
	<u>In Services,</u>	<u>or Both</u>	<u>Requirement</u>	<u>Allowed</u>
	<u>Costs or</u>		<u>Allowed</u>	
	<u>Both</u>			
CA	services	both	many	yes
CO	services	legislation	none	yes
FL	costs	legislation	few	yes
IL	costs	both	many	yes
MA	both	both	some	yes
MI	services	both	many	no
TN	costs	both	few	no

TABLE 3

STATE EXCLUSIONS ALLOWED(\*) OR USED

California	*--requests by local governments *--legislation defining a crime or changing the definition of a crime --court mandates --federal mandates --voter approved mandates --self-financing authority --no new duties
Colorado	--no specific exclusions
Florida	--laws affecting schools --laws affecting only some local governments
Illinois	*--local government and structure mandates *--due process mandates *--local requests *--no net cost increases *--offsetting savings *--mandates that can be recovered through federal, state or external financial aid *--costs of less than \$1000 for a unit of local government or less than \$50,000 for all units in the aggregate
Massachusetts	--criminal laws or civil violations --federal legislation --penalties imposed due to violations of law --retirement and group insurance *--court decisions *--local acceptance laws
Michigan	--mandates originating from initiative petitions --voter initiated proposals --court requirements --due process requirements --federal requirements --a requirement that also applies to the private sector --any requirement increasing judges salaries of the circuit and probate courts
Tennessee	*--responsible for fair share only *--responsible to fund only first years costs *--laws applicable to only some, but not all units of local government not covered

TABLE 4

RIGHTS OF LOCAL GOVERNMENTS

<u>State</u>	<u>Upfront Appropriation Required?</u>	<u>Advance Funding Available</u>	<u>Non-Compliance Allowed in Absence of Funding</u>	<u>Formal State Appeals Mechanism Available</u>
CA	no	no	no	yes
CO	no	no	no	no
FL	no	no	no	no
IL	yes	no	yes	yes
MA	yes	yes	yes	no
MI	yes	no	yes	yes
TN	yes	yes	yes	no

## INTER-DEPARTMENTAL MEMORANDUM



SUBJECT: Mandate Program

DATE: October 13, 1987

TO: John Knox, Legislative Analyst Office of Policy &amp; Legal Analysis

FROM: Jean E. Mattimore, Commissioner *JEM* Department of Finance

As a result of your September 14 memorandum on this subject, we have given considerable thought to developing a responsive cost estimate relative to implementation and operation of a program to reimburse political subdivisions for the costs of legislative mandates.

While you are no doubt by now well aware of our strong reservations concerning the feasibility of accurate cost assessment and the costs to the state of such a program as a result of previous communications to you from this department and presentations we have made before the Sub-Committee on State Mandates, let me assure you that we have attempted to approach this latest exercise in an open minded fashion in order to find an appropriate means of responding to the Committee.

Due to the likely volume of state mandates that would fall within any reimbursement program (and the variety of forms in which their fiscal impact could be manifested), the number of potentially impacted political subdivisions in the state (and their diverse systems of financial record keeping) and the vast system of controls and audit procedures that would be required to monitor a dollar-for-dollar retrospective reimbursement program for state mandates, we have concluded that the only feasible approach to mitigating the cost of state mandates statutes and rules upon political subdivisions would be one based upon a reasonable distribution of specifically appropriated resources of a finite nature among affected subdivisions on a prospective basis.

Enclosed herewith is our view of how such a process might evolve and be operated and a rough estimate of start-up and ongoing costs related to it. Please note that the estimated costs do not include those which would be incurred by the political subdivisions in meeting reporting requirements necessary to establish and maintain the data base.

JEM/km

## THEORETICAL

### POLITICAL SUBDIVISION REIMBURSEMENT PROGRAM

In order to have a reasonable chance at insuring that affected political subdivisions of the state were given fair and equitable consideration with regard to reimbursement from identified resources of any costs they might be expected to incur as a result of state imposed mandates (both agency rules and legislation), it would first be essential to establish a sound data base to be used to anticipate such costs and a means of maintaining it on a current basis. Such a data base would necessarily include basic fiscal and demographic data for all municipalities, school districts and counties (it is unclear as to whether or not entities such as regional planning commissions might be included as well).

A logical place to begin with regard to defining the components of the data base might be with the normal contents of currently produced annual reports. A uniform reporting format would be required in order to provide a means of collecting auditable actual expenditure data for a given fiscal period from the subdivisions. This fiscal data would, of course, need to be supplemented by a variety of other meaningful measures which could prove helpful in determining both total and individual subdivision mandated costs expected to result from various state-level proposals. These non-expenditure data sets would probably include information on: numbers and types of employees; population/age/employment status of residents; geographic area; miles of shorefront/coastline; miles of roads by type and maintenance responsibility (town/state/private); number and square footage of privately and publicly owned structures; local tax base and valuation; motor vehicle/boat/snowmobile registrations; sales/income/other taxes collected; state revenue sharing and school subsidies received; etc.

With the foregoing in place, analysts could more accurately project the probable costs to the subdivisions of proposed legislation and agency rules in order to permit appropriate funding for each measure to be incorporated, in advance, into all mandates. For those proposed mandates actually receiving final approval and funding there would also be the data necessary to allocate or prorate appropriated funds as appropriate. Actual "payments" which would be "owed" to subdivisions of the state would probably be identified and allocated by individual mandate and could be distributed in a manner similar to that used for Municipal Revenue Sharing disbursements. Since it is envisioned that total payments would be determined by actual appropriations provided for offsetting costs identified to each mandate and distributed on a prospective basis, funds could be dispersed in accordance with the calculations utilized to project and fund the mandate's fiscal impact. For example, if a legislative initiative concerning shoreland zoning was determined to have a fiscal impact on municipalities of 10¢ per mile of shoreland to administer, the data base could be used to project a required entitlement amount for each affected city/town in the state. The total would be the bill's required appropriation and the detail by subdivisions used to calculate the total would be used as the distribution formula for the actual payments ultimately funded by the Legislature.

Under such an approach, no subsequent funding adjustments would be necessary and the need for documentation of reimbursements would be avoided (since they would be tied to the data base rather than actual, after-the-fact expenditures).

While, the use of a "prospective reimbursement" approach accentuates the need for an accurate data base, any funding provided to offset the cost of mandates should be predicated on sound assumptions anyway. While actual

political subdivision expenditures in response to a given mandate could exceed the amount provided under the reimbursement plan at the discretion of the subdivision, sound initial cost estimates of amounts funded for each mandate and vigorous enforcement of mandates by the state could minimize possibilities for subdivisions to simply accept the state funding provided to them and not take proper steps to comply with the funded mandates.

ESTIMATE OF COSTS TO  
DESIGN AND OPERATE  
MANDATE PROGRAM

One-Time Costs to Build Data Base:

Systems Design, Software	\$ 250,000
Equipment (Terminals, CCS Charges, etc.)	100,000
Training of Reporting Subdivisions	80,000
Data Entry-Edit-Verification	<u>50,000</u>
	480,000

Annual Update/Maintenance of Data Base

Municipalities (491)	
School Districts (282)	400,000
Counties (16)	

Payment Calculation/Processing	10,000
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Total Start-up and 1-Year Operating Cost	<u>\$ 890,000 *</u>
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\* Does not include previously estimated costs related to assessment of fiscal impacts by analytical staff.



## STATE OF MAINE

Appendix M

Inter-Departmental Memorandum Date October 1, 1987To John B. Knox, Legislative Analyst *Rodney Scribner* Dept. Office of Policy and Legal AnalysisFrom Rodney L. Scribner, CPA, State Auditor Dept. AuditSubject Mandate Program - State Department of Audit

I would estimate that the cost to administer a program for reimbursing political subdivisions for certain future legislation would be as follows:

High Estimate - Bureau of Local Mandates

Personal Services	(21)	\$504,000
All Other		75,600
Capital Expenditures		<u>21,000</u>
Total		<u>\$600,600</u>

Low Estimate - Bureau of Local Mandates

Personal Services	(7)	\$168,000
All Other		25,200
Capital Expenditures		<u>7,000</u>
Total		<u>\$200,200</u>

After the first year, the personal services and all other would be increased by merit raises and cost of living allowances. The capital expenditures line would be reduced to allow for replacements instead of start up equipment.

The high estimate was developed by using last session's list of 42 mandates as a base, considering the type of mandate (one-time, increased minimum requirement, etc.), the number of political subdivisions, and the time involved to staff an average review of the impact on each subdivision. As a guide, I used 2 hours staff time for each item. The result was factored into the number of working hours available in a year.

The low estimate was developed by taking 1/3 of the high estimate and assessing that, initially, the Legislature and the subdivisions would be satisfied with a level of effort that would be minimal on many items. However, a measurable impact on major items of intergovernmental fiscal affairs could be achieved. This also recognizes the practicality of recruiting staff with an appropriate level of experience and training in municipal and intergovernmental activities.

The best approach, and the one I recommend, would be somewhere in the middle. Perhaps 12-14 positions could appropriately staff such a legislative initiative if a carefully considered law were to be enacted.

To answer your questions about the program, I would recommend that reimbursement be after the fact except when a suitable formula involving known quantities such as populations could be used. The documentation would be a claim, return or assurance form which would be tailor made for each mandate. These forms should be subject to audit for a reasonable period, say three years. Estimates could

be part of this and filing would be infrequent, perhaps annually for those seeking funding.

All documentation would be reviewed and a sample audited, in some cases the sample may need to be 100%. The time required for reimbursement would depend on how quickly claims would be filed. It would require three weeks after receipt for the types of mandates listed in your enclosure. Funds would have to be available and up front financing based on a fiscal note process would be necessary.

I have tried to address each item in your September 14th request and if further information is needed, please let me know.

RLS/par

**TABLE 2**  
**Overview of State Fiscal Note Processes**  
 (states not included had no fiscal notes process as of December 1981)

State	1 Year Enacted	2 Form	3 Methodology	4 Quality of Notes	5 Notes Redone After Amendment (Yes, No, or Sometimes)	6 Process Considered Effective by:	
						(a) State	(b) Locals
Arizona	1979	Law <sup>a,d</sup>	Sampling	Low/Med	No	Medium	Medium
Arkansas	1977	Law <sup>b,d</sup>					
California	1973	Law <sup>a,c</sup>	Sampling Statistical Analysis	High	Yes	High	High
Colorado	1978	Law <sup>a,c</sup>	Sampling	Medium	Sometimes	Medium	Medium
Connecticut	1977	Law <sup>a,d</sup>	Loose Sampling	High	Sometimes	Med/High	Medium
Florida	1977	Law <sup>a,d</sup>		High	No	Med/High	Med/High
Georgia	1981	Law <sup>b,c</sup>					
Idaho	1977	Legislative Rule <sup>a,d</sup>			None Received		
Illinois	1979	Law <sup>a,c</sup>	Rigorous Sampling	High	Sometimes	Med/High	Med/High
Indiana	1972	Legislative Rule <sup>b,d</sup>					
Iowa	1974	Law <sup>a,d</sup>	Loose Sampling	Medium	Sometimes	Medium	Low/Med
Kansas	1971	Law <sup>a,c</sup>	Ad Hoc	Medium	Sometimes	Low	Low
Kentucky	1982	Law <sup>b,d</sup>					
Louisiana	1979	Law <sup>a,d</sup>	Loose Sampling	Medium	Yes	Medium	Medium
Maine	1980	Law <sup>a,d</sup>	Loose Sampling	Medium	No	Medium	Medium
Maryland	1968	Law <sup>a,d</sup>	Sampling and Statistical Analysis	Medium	Yes	Medium	Medium
Massachusetts	1980	Law <sup>b,c</sup>					
Michigan	1978	Law <sup>a,d</sup>	Sampling and Statistical Analysis	High	Yes	High/Med	Medium
Mississippi	1976	Joint Concurrent Resolution <sup>a,d</sup>	Ad Hoc	None Received	Sometimes	Medium	Low/Med
Missouri	1979	Law <sup>a,d</sup>	Loose Sampling	High	Sometimes	Medium	Medium
Montana	1979	Legislative Rule <sup>a,c</sup>	Loose Sampling	Medium	Yes	Medium	Medium
Nebraska	1976	Legislative Rule <sup>a,d</sup>	Loose Sampling	Medium	Sometimes	Medium	Low/Med

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Public Budgeting &amp; Finance / Autumn 1983

From: Fiscal Notes and Mandate Reimbursement in the 50 States,  
 C. H. Lovell and H. R. Egan

TABLE 2 (continued)

Nevada	1975	Law <sup>a,d</sup>	Ad Hoc and Surveys	Medium	No	Low	Low
New Hampshire	1981	Law <sup>a,d</sup>	Contact Agencies	Med/High	Yes	Medium	Low/Med
North Carolina	1981	Law <sup>b,d</sup>					
Ohio	1977	Law <sup>a,d</sup>	Sampling and Statistical Analysis	High	Yes	High	High
Oregon	1975	Law <sup>a,c,d</sup>	Loose Sampling	Low	Sometimes	Med/High	Medium
Pennsylvania	1974 House 1980 Senate	Legislative Rule <sup>a,d</sup>	Ad Hoc	Low	Sometimes	Medium	Medium
Rhode Island	1978	Law <sup>a,c</sup>	Consult Directly with Cities and Towns	High	Sometimes	High	High
Tennessee	1974	Law <sup>a,c</sup>	Sampling and Statistical Analysis	High	Sometimes	Med/High	Medium
Texas	1977	Procedural Rule <sup>a,d</sup> (Both Houses)	Systematic Sampling	None Received	Yes	Med/High	High
Virginia	1980	Law <sup>a,c</sup>	Loose Sampling	None Received	Yes	Medium	Low/Med
Washington	1977	Law <sup>a,c</sup>	Rigorous Sampling and Statistical Analysis	High	Sometimes	Med/High	Medium
West Virginia	1973	House Rule Only <sup>a,d</sup>	Loose Sampling	Medium	Sometimes	Med/High	Medium
Wisconsin	1971	Law <sup>a,c</sup>	Sampling and Statistical Analysis	High	Yes	High	High

a = Process is implemented.

b = Process is not implemented.

c = Agency responsible is in executive branch.

d = Agency responsible is in legislative branch.

legislative offices—either by budget and finance committee staffs or in legislative research offices. In some cases both legislative and executive units participate in the note preparation.

BENT SCHLOSSER  
Director

Date: 5/4/87 ORIGINAL

RICHARD N. SAWYER, JR.  
Deputy Director

Maine State Legislature  
OFFICE OF FISCAL AND PROGRAM REVIEW  
Augusta, Maine 04333

TO: Senate Chairman - Sen. J. Tuttle State and Local Government  
House Chairman - Rep. D. Carroll  
Sponsor - Rep. Smith

FROM: (RS) Richard N. Sawyer, Jr. Deputy Director

SUBJECT: FISCAL NOTE INFORMATION FOR LD # 1078

An Act Requiring Funding of State-mandated Programs

I. The estimated INCREASE of APPROPRIATION  
required if this Legislative Document is approved.

	1987-88	1988-89
Positions		
Personal Services		
All Other		
Capital Expenditures		
Unallocated		
TOTAL	_____	_____

II. Estimated INCREASE of UNDEDICATED  
Fund Revenues for the biennium is as follows:

	1987-88	1988-89
Undedicated Revenue		
Highway Fund Revenue		
Dedicated Revenue		

III. Remarks:

Enactment of this legislation will result in a future cost to the various state departments operating funds if the Legislature enacts new programs that result in municipal revenue losses. Although the bill states the department administering the state mandated program must pay the involved municipalities with departmental funds, it should be noted that additional appropriations or allocations to the involved department will be needed at the time the Legislature enacts a new mandate affecting local governments.

BENT SCHLOSSER  
Director

Date: 4/28/87 ORIGINAL

RICHARD N. SAWYER, JR.  
Deputy Director

Maine State Legislature  
OFFICE OF FISCAL AND PROGRAM REVIEW  
Augusta, Maine 04333

TO: Senate Chairman - Sen. J. Tuttle State and Local Government  
House Chairman - Rep. D. Carroll  
Sponsor - Rep. Webster

FROM: Richard N. Sawyer, Jr. Deputy Director

SUBJECT: FISCAL NOTE INFORMATION FOR LD # 1149

An Act Requiring Fiscal Impact Statements Describing the Costs and Benefits Associated with Each Legislative Document and Agency Rule that Affect Political Subdivisions of the State

I. The estimated INCREASE of APPROPRIATION required if this Legislative Document is approved.

	1987-88	1988-89
Positions	5.0	5.0
Personal Services	172,900	185,275
All Other	126,400	26,400 -
Capital Expenditures	9,780	
Unallocated		
TOTAL	<u>309,080</u>	<u>211,675</u>

II. Estimated INCREASE of UNDEDICATED Fund Revenues for the biennium is as follows:

	1987-88	1988-89
Undedicated Revenue		
Highway Fund Revenue		
Dedicated Revenue		

III. Remarks:

The appropriation sections of this legislation will have to be amended to correct the figures and add a second year appropriation.

The correct appropriation to the Dept. of Finance should be one (1) position and \$30,942 in FY 1987-88 and one (1) position and \$33,884 in FY 1988-89.

The correct appropriation to the Legislature should be four (4) positions and \$278,138 in FY 1987-88 and four (4) positions and \$177,791 in FY 1988-89.

Lastly, the statement of no future all other or capital costs in the Statement of Fact is incorrect.

**NATIONAL CONFERENCE OF STATE LEGISLATURES  
TASK FORCE ON STATE-LOCAL RELATIONS**

**SUMMARY OF RECOMMENDATIONS  
August 1986**

We are on the brink of a period of significant change in the way state and local governments interact, caused in part by the continuing reduction of federal financial support. These recommendations are intended as guides to states as they reassess their policies toward local governments in a period of "fend-for-yourself" federalism. We recognize that each state must develop state-local policies consistent with its unique traditions and that no grand design for state-local relations can be developed for all states. We feel that the recommended policies deserve serious consideration and that the issues raised ought to be debated.

1. Legislators should place a higher priority on state-local issues than has been done in the past. The time has come for states to change their attitude toward local governments--to stop considering them as just another special interest group and to start treating them as partners in our federal system of providing services for citizens. Likewise, local governments should resist a "go-it-alone" attitude and should participate in the process as partners.

**Improving the State-Local Policy Development Process**

2. Each state needs an organization dedicated to studying state-local issues and resolving problems, either a state advisory commission on intergovernmental relations or a legislative commission on state-local relations. It should be created by statute, have strong legislative representation, and have an adequate budget and staff.
3. States should develop systems to monitor local fiscal developments and to inform the public about significant trends in local finance.

**Improving State-Local Policies**

4. States should give localities more discretion in raising revenues. Sales and income taxes should be among the options available to local governments. Safeguards should be enacted to facilitate use of these taxes and to mitigate problems associated with them.
5. States should provide technical assistance to help local governments implement user charges.
6. The property tax should be made more acceptable by improving assessment systems, adopting state-financed relief programs to shield the poor from excessive burdens, and enacting "truth-in-taxation" provisions.
7. States should evaluate their system of limitations on localities to assure that it does not prevent local revenue per capita from rising at least as fast as the inflation rate.

8. States should review mandates placed on local governments, consider eliminating or relaxing them and in some cases assuming the cost of complying with them, and develop methods to assure that the costs of prospective mandates are taken fully into account before enactment.
9. Each state should reevaluate its system of "sorting out" responsibilities with its local governments. As part of this process, states should move in the direction of assuming major poverty-related costs from local governments.
10. States need to develop sophisticated formulas for distributing local aid, including targeting assistance to jurisdictions with the lowest fiscal capacity.
11. States should search for other low-cost methods of helping local governments, such as providing technical assistance and creating bond banks and insurance pools.

# State-Local Panels: An Overview

Michael Tetelman

**The age of "fend for yourself" federalism has forced states to reassess their policies toward local government. As suggested by the National Conference of State Legislatures (NCSL) Task Force on State-Local Relations late last year:**

One of the major challenges facing the states is to find ways to help local governments without necessarily incurring heavy financial burdens for the states . . . . We believe that state-local organizations can play a pivotal role in studying and resolving local problems.

Thirteen years ago, when the Advisory Commission on Intergovernmental Relations (ACIR) first suggested that states create their own intergovernmental panels, there were only four in existence. Today, there are 25 state counterpart organizations, and over a dozen other states have proposals under consideration.

These state-local commissions fall into three structural categories: the ACIR "model," the local advisory panel, and the legislative organization. These agencies exhibit a wide variety in structure, purpose and achievement. Eighteen have been established by statute, and five have been created by executive order. Two are "private" organizations outside of state government. Staffing patterns range from part-time or loaned services to a complement of 20 full-time employees. Funding patterns also vary greatly—from no appropriation to over \$1 million.

This article highlights the structural variations and describes the diversity of topics that these commissions have addressed. The wide range of accomplishments reveals the tremendous potential of an organization to facilitate state-local relations.

## State ACIRs

State ACIRs are markedly disparate and broadly based. There are currently 18 panels which follow the state ACIR pattern: Connecticut, Florida, Iowa, Louisiana, Massachusetts, Minnesota, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont and Washington. Although not all of these state organizations use the acronym, they generally follow the membership pattern and scope of work set out for a state ACIR. Thirteen of the commissions have been established by statute, while four have been created by executive order and one (Pennsylvania) is a nonprofit corporation.

The average size of the state ACIRs is 22 members; Massachusetts has the largest with 39, and Ohio has the smallest at 13. The membership profile exemplifies the diversity in state outlook and needs. For example, Washington's ACIR includes the state's Director of Indian Affairs, and special districts are represented in South Carolina and Texas. State and local education interests are represented in 11 states, and town and township officials are members in four states. Federal interests are represented in two states: two federal agency officials serve on the Texas ACIR, and the eight members of the congressional delegation (or their representatives) have been named to the Oklahoma ACIR.

State ACIR funding and staffing patterns also vary. At least nine of the organizations have a specific appropriation, and eight have full-time staff. The remainder of the ACIRs rely on staff and receive administrative support from other agencies (such as a department of community affairs). For example, the New Jersey panel, a well-established ACIR, has an appropriation of \$221,000 and a seven-person staff, while North Carolina currently has a budget of \$5,397 and one professional staff mem-

ber. Texas, through a combination of a state appropriation, publications sales, and grants and contracts, has a FY 1987 budget of \$703,768 and a 12-person staff. The Pennsylvania council relies solely on grants and contracts to underwrite its \$550,000 budget and staff of ten. The South Carolina ACIR, with four staff members, receives half of its \$239,000 budget from a state appropriation and the other half from state-shared revenues to cities and counties.

Because of their broad representation and generally flexible revenue sources, state ACIRs have been able to address a wide variety of issues and problems, and perform five major roles: (1) acting as ombudsman; (2) conducting technical training; (3) serving as an information clearinghouse; (4) formulating research; and (5) recommending policy.

In the ombudsman role, Washington's ACIR has performed admirably. In 1986, the ACIR successfully mediated a dispute between the state Department of Labor and Industries and the local government associations over workers' self-insurance. Florida's ACIR also has been an active coordinator, sponsoring forums with the Center for Policy Studies at Florida State University to develop comprehensive information on local government issues.

Technical training assistance has been one of the South Carolina ACIR's strong points. In 1985, the ACIR sponsored a conference in conjunction with the University of South Carolina as part of a training program for local officials. The Texas ACIR publishes a guide to state laws for city officials, and the Pennsylvania council conducts training and technical assistance programs for state agencies.

A number of state ACIRs maintain extensive data bases. For example, Texas has established a business/industry data center to assist economic and development specialists. The Texas ACIR also has coordinated with Texas A&M and the University of Texas to collect data on demographic and cultural changes. Florida maintains a general data base on financial information, ranging from local government finances to outstanding bond issues. The Pennsylvania council has developed a data base for an early warning system to detect local fiscal stress.

Undertaking research and subsequent policy recommendations most clearly shows the diversity, common issue areas and impact of the state ACIRs. Several organizations have produced in-depth infrastructure reports covering such broad topics as street and water system improvement (Iowa) and innovative financing techniques (South Carolina). Examples of commonly shared policy concerns include tort reform and liability insurance (Florida, Iowa, Minnesota, Missouri, New Jersey and Texas), the impact of the decline in federal aid on local governments (Florida, Missouri, Pennsylvania, South Carolina and Tennessee), home rule (Connecticut, Florida, Iowa, Missouri, New Jersey, South Carolina and Washington), and state mandates (Florida, Iowa, New

Jersey, Ohio, Pennsylvania, South Carolina and Vermont).

State ACIRs also have responded to more specialized needs. One such area of concern is waste disposal. For example, the Texas ACIR has worked with the state Nuclear Waste Programs Office and the Texas Low-Level Water Disposal Authority to implement effective local government relations. In 1985, Washington's ACIR coordinated with the state Department of Ecology to develop guidelines for waste disposal facility operation and management. The recommendations were incorporated into legislation, passed the legislature, and were signed by the governor.

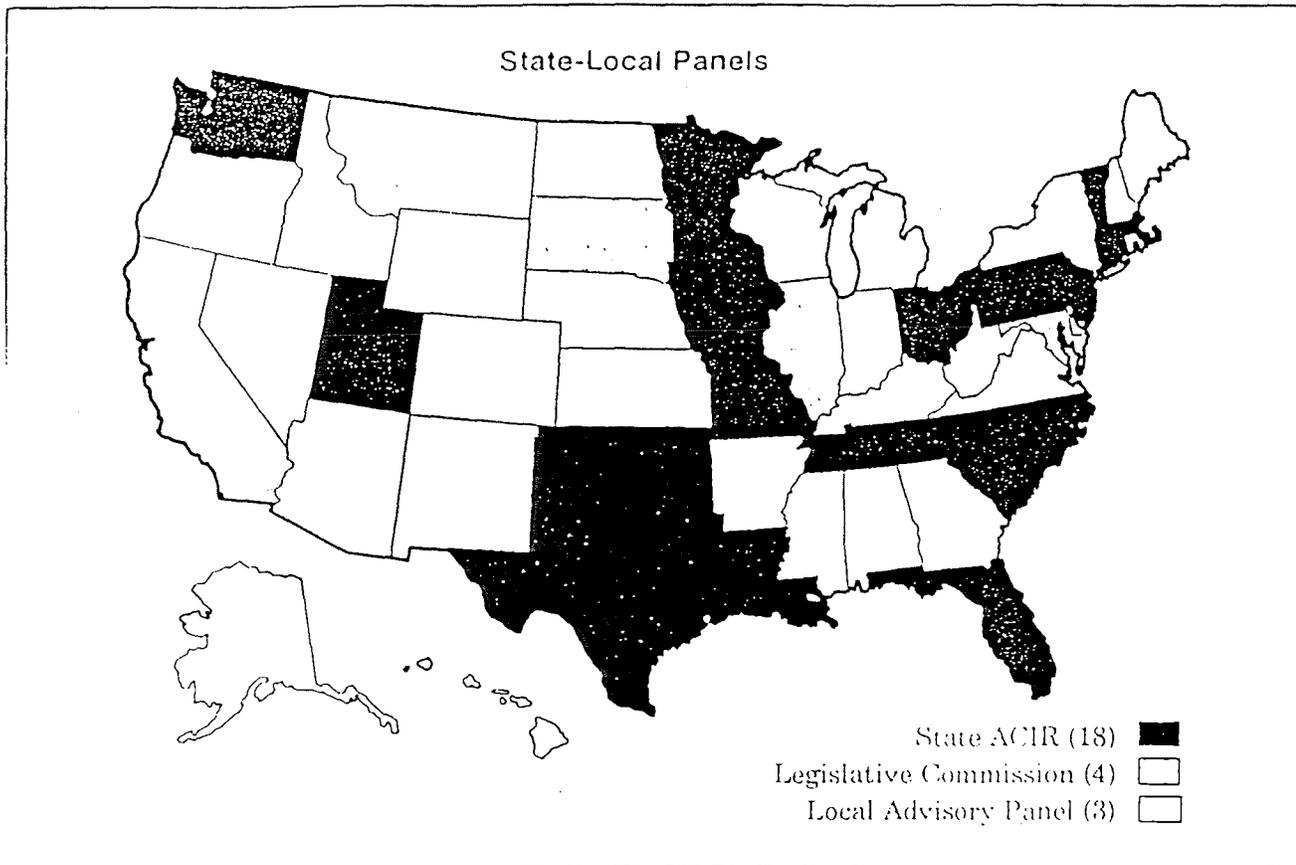
In 1985, Missouri's Commission on Local Government Cooperation made recommendations on liability insurance which led to passage of legislation forging the Public Entity Risk Management Fund. This fund enables Missouri's local governments to obtain liability coverage through a state-administered insurance pool program. The Tennessee ACIR's 1986 series of tax studies led to the equalization of taxing districts, improvement in appraisal ratio studies, and development of a current value index. New Jersey's Commission on County and Municipal Government developed legislation authorizing municipalities to allow counties to construct flood control and storm drains of any type they choose.

State ACIRs' success in recommending policy underscores the national ACIR observation about the difference in impact among advisory organizations: This distinction—between commissions which are broadly representative and have the resources to initiate policy recommendations, perform research, and follow up on recommendations, and those which serve only as a forum for discussion of intergovernmental issues raised primarily by local officials—is the most important difference between current state organizations.

#### Local Advisory Panels

The three local advisory groups are fairly uniform in membership and purpose. Their members are predominantly local representatives, and their primary focus is advising the governor. The Virginia Local Government Advisory Council is a statutory agency chaired by the governor. The Maine Municipal Advisory Council is an executive order agency whose chairman is appointed by the governor. The Michigan Council on Intergovernmental Relations is an organization created by a contractual agreement among the four local government associations, and the chairmanship is rotated annually among the organizations.

The average size of the local advisory bodies is 15 members, with a high of 26 in Virginia and a low of eight in Michigan. The Maine panel has 12 members. Staffs and funding are relatively modest. Maine's advisory council liaison, for example, is the Commissioner of Transportation, and members' expenses are paid by their respective associations. Michigan's council utilizes staff from the four local government associations, as



needed. Each organization also is assessed an equal share to underwrite expenses. Only the Virginia council has assigned staff person and a specific state appropriation (\$10,000).

Local advisory boards perform a vital service—to provide a forum. They serve as a "local voice" in discussing a broad range of specific issues such as taxation, education, social services, land use, zoning, solid waste disposal, community development and the environment.

Each of the panels has been successful in bringing attention to issues and problems of importance to local governments. Yet, the very design of these panels makes them somewhat limited. Their structure does not take to account an increasingly important participant in the intergovernmental system—the state legislature. And, the availability of only very modest staff and financial resources militates against their being able to undertake any long-term or sustained project or activity.

#### Legislative Organizations

All four of the legislative organizations are territorially based agencies of the state legislature. The Illinois, Maryland and New York panels are comprised entirely of legislators, with equal representation from each chamber. The South Dakota commission is a "permanent committee" of the Legislative Research Council and includes four local government officials.

Each of the panels has staff and budget resources, ranging from one staff person and a \$5,000 annual appropriation in South Dakota to a 20-person staff and a budget of about \$1 million in Illinois. The Illinois budget includes support for a four-person staff in the legislature's Washington, D.C. office.

As legislative entities, these organizations are well positioned to have an important role in their respective state's policymaking processes. Each panel has addressed and proposed recommendations on a wide variety of topics—from day care to housing and from annexation to federal aid. Two of the commissions, in Illinois and New York, also have developed extensive fiscal data bases.

For example, Illinois' commission has conducted extensive analyses of federal grants, state mandates and education. The commission also has sponsored conferences on issues ranging from child care services to affordable housing. Their recommendations have resulted in wholesale changes in such areas as child protection enforcement (1981-84) and hazardous waste (1982-83). Recommendations from New York's commission led to the 1985 enactment of significant revisions in the local government general purpose aid program. The New York panel also has sponsored a number of extensive studies focusing on the delivery of local services, developed a catalog of federal and state aid programs, and sponsored several

statewide conferences and seminars. The Maryland committee prepares an annual summary of major legislative proposals, monitors congressional and federal administrative developments, and has assumed the role of the former intergovernmental cooperation commission in interstate matters. The South Dakota commission has studied such diverse issues as home rule, which led to the adoption of a constitutional amendment; payments in lieu of taxes and the classification of state park and game lands; court clerks' salaries; real property valuation; day care services; and annexation, which resulted in a complete overhaul of the state's annexation process.

While three of the panels (excluding Maryland) have no formal mechanism to involve state executive officials, the Illinois, Maryland and New York panels have begun to include local officials more actively in their deliberations. The New York commission utilizes a "working group" of the local associations as a sounding board to review and comment on research projects, and regularly contributes articles to these associations' newsletters. The Illinois commission publishes a newsletter, is responsible for the state's block grant advisory committee, and regularly utilizes local officials as advisors to the commission.

In response to a measure sponsored by the Maryland committee, a statutory advisory group has been reactivated and reorganized to involve both state executive and local government officials, and to focus specifically on state-local relations.

### Conclusion

The nature of today's federalism debates and global economy place even greater emphasis on the need for strong state governments and a sound state-local partnership. State ACIRs and similar types of intergovernmental panels, demonstrating continuity, capability and ever-increasing credibility, have a very necessary role to play during this critical period for governments at all levels, and will continue to have a positive effect on state-local relations.

*Michael Tetelman is a student at Yale University, and served as an ACIR Intern during the summer of 1987.*