

STATE-TO-LOCAL MANDATING
IN MINNESOTA

STATE-TO-LOCAL MANDATING IN MINNESOTA:

Background Research and Discussion of the Problem

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Preface

Many local programs and actions are subject to state-imposed requirements or mandates. This report examines the state-to-local mandating issue in Minnesota. The first section discusses some of the major issues encompassing the state-to-local mandating issues, including the problem of how to define a mandate, the conditions under which mandates are appropriate, the question of states' rights to mandate versus local autonomy, and the difficulty of measuring the actual costs of mandates to local governments.

The second part of the report presents findings from an investigation of the nature and magnitude of state mandating in Minnesota with emphasis on the administrative and fiscal effects state mandates have on city governments. This section describes the results of two surveys, one conducted by the League of Minnesota Cities in 1978, and the other conducted by the State Planning Agency in June of 1980.

The third part of the report describes various types of policies which other states have implemented in efforts to alleviate some of the intergovernmental friction created by state-to-local mandates. Particular attention is given to the State of California which has had a comprehensive local-mandate policy since 1972.

The final section describes several policy alternatives for state-to-local mandate policy in Minnesota.

INTRODUCTION

State-to-local mandates have been described by some as placing a "triple squeeze" on local governments. The squeeze results from: 1) constituents who expect government to increase the quality and range of services while at the same time protecting local self-determination, 2) increased pressures from state agencies to enlarge the scope and mix of locally delivered government services, and 3) constraints on ability to raise local revenues (partly as a result of state limits), which in turn leads to greater dependence on state and federal grants-in-aid, making local governments susceptible to additional mandates. According to this view, state mandating is seen as undermining local government autonomy. However, others view the new state-local partnership, including mandating activities, as part of a healthy development for our federal system, creating greater equity, fairness, and revenue capacity throughout all levels of government. According to this view, mandates are a way of guaranteeing that local government actions are consistent with the public interest.

Separating these two viewpoints are several issues over which the sides disagree:

- Are mandates an efficient means for achieving legislative goals?
- Do mandates unduly restrict local government creativity, autonomy and control?
- Do mandates impose unfair costs on local governments? If so, how should costs associated with mandates be shared?

The first obstacle to resolving these issues is a lack of agreement over what is and is not a mandate. Despite its common use by state and local officials, the term "mandate" still lacks a commonly understood and accepted definition.

A. WHAT IS A MANDATE?

Defining what is a mandate is probably the most important aspect of the mandating issue. An agreed-upon definition is a necessary prerequisite to any state policy on mandating. The question revolves around four issues:

1. What governmental entities should be included as mandating agencies (i.e., the legislature, administrative branches, executive officers, the courts)?
2. Should required "procedures" as well as required "programs" be considered as mandates?
3. Should requirements which are attached as conditions-of-aid be considered as state mandates?
4. Should state policies which constrain local revenue raising powers (e.g., tax exempt property, levy and debt limits) also be considered as mandates?

Max Nieman and Catherine Lovell, and the U.S. Advisory Commission on Intergovernmental Relations (ACIR), have each offered very broad definitions of mandates. According to Nieman and Lovell:

A mandate is any responsibility, action, procedure, or anything else that is imposed by constitutional, legislative, administrative, executive or judicial action as a direct order or that is required as a condition of aid.¹

The definition used by ACIR is similar but shorter:

....any constitutional, statutory or administrative action that either limits or places requirements on local governments.²

In effect, these definitions define mandating to cover virtually the gamut of local government activity. Using these definitions, everything that local governments do, in one way or another, probably has some mandate associated with it.

¹Lovell, Catherine H. and et.al. Federal and State Mandating on Local Governments: An Explanation of Issues and Impacts, Graduate School of Administration, University of California, Riverside, 1979, p.32.

²Advisory Commission on Intergovernmental Relations. State Mandating on Local Expenditures, Washington, D.C., July, 1978, p.16.

Such broad definitions, however, are impractical for use in designing remedial state mandating policy. It is usually necessary, as a practical matter, to limit the scope covered by the policy. For example, the policy may apply: only to new state directives; to only executive or legislative action (excluding administrative rules and court orders); or to only those actions that require a direct local expenditure.

Thus, in order to formulate meaningful state mandate policy, it is imperative for policy makers not only to agree as to what a mandate is but also to understand the implications of the definition they choose. How narrowly or broadly mandates are defined will determine both the extent and nature of the mandating problem and will determine, in large part, the substance of the types of policy sought. For example, if mandates are defined broadly, such as in the definitions above, mandates can likely be identified throughout the entire scope of local government activity. A broad definition would, in effect, provide greater support to local officials' contention that states are indeed undermining local control and accountability. In addition, a broad definition would also create a less than precise framework from which to formulate policy, thereby encouraging a more encompassing and costly approach to the problem. Conversely, a more narrow definition might focus on only the more troublesome mandates and would probably lead to a more restrictive policy. In other terms, a broad definition of mandates runs the risk of overstating the problem, while a narrow definition may ignore it.

A mandate typology developed by Nieman and Lovell illustrates why it is difficult to design single dimension policies which are responsive to the complexity of the mandating issue.³ As shown in Table 1, their typology classifies mandates into two major categories: 1) requirements and 2) constraints. Within

³Lovell, op. cit. pp. 33-42.

the first category, requirements, there are two principal types of mandates: programmatic and procedural. Programmatic mandates usually result from orders or conditions that involve statements of what should be done (the programmatic dimension). Procedural mandates result from orders or conditions that involve statements of how it should be done (the procedural dimension). Within each of these types, there are several subtypes. The second major category, constraints, includes three principal types of mandates: revenue base constraints, revenue constraints, and expenditure limits.

In a study of five states, Lovell found that procedural mandates were much more common than either programmatic or revenue constraint mandates (see Table 2).⁴ The same study also found that most mandates originated in statutes, some in administrative regulations, and virtually none in executive orders. An overwhelming majority in each state were direct orders rather than conditions of aid. Apart from general government, which accounted for between 31 and 43 percent of all mandates, the most heavily mandated functions were health, community development and public protection.

The Nieman-Lovell typology may prove to be a useful tool to help identify the different types and purposes of mandates, an understanding of which is necessary for the development of any policy which is intended to regulate state-to-local mandating or ameliorate its effects. This is important since no single policy is likely to be suited to every mandating situation. In addition, an appreciation of the different types and purposes of mandates is likely to result in the realization that some mandates are more or less desirable than others. Finally, such a typology may provide a useful framework for on-going monitoring of state-to-local mandating.

⁴Lovell, op.cit. pp. 68-84

TABLE 1 Mandate Typology

Type of Mandate	Description
I. <u>Requirements</u>	
A. Programmatic Mandates	Require a local government to perform a <u>program</u> or activity, or in some way prescribe the <u>quantity</u> or <u>quality</u> of program output.
B. Procedural Mandates	Regulate and direct the way in which a jurisdiction produces goods and services. There are basically six types of procedural mandates.
1. Reporting	Require the transmitting, disseminating, or communicating of any kind of data or information.
2. Performance	Are <u>nonfiscal</u> requirements often issued to facilitate the attainment of some <u>quality</u> or <u>quantity</u> goal. Examples would include requirements that drug-treatment centers provide adequate assistance in career planning for their clients or that public notice of government proceedings be published in a local newspaper.
3. Fiscal	Specify the <u>manner in which</u> the fiscal resources attached to particular programs must be organized, accounted for, monitored, or reported.
4. Personnel	Specify how individuals employed in local government or in particular programs must be recruited, what their qualifications should be, what fringe benefits are, etc.
5. Planning/Evaluation	Require that activities be coordinated with an overall program plan, either of the agency or jurisdiction, or of some other designated governing entity.
6. Record-keeping	Require that local jurisdictions <u>retain</u> information or data and maintain public accessibility to it.
II. <u>Constraint Mandates</u>	Requirements that <u>limit</u> the amount and kind of resources that can be raised and/or expended to support public goods and services. Three kinds of constraint mandates can be identified.
1. Revenue Base	Specify the <u>kinds</u> of fiscal resources that can be used to finance public goods and services.
2. Revenue Rate	Place <u>limits</u> on revenue, often expressed as the percentage of the total value of the base.
3. Expenditure Limit	Limit the amount which a local unit may spend on a particular function, set of programs, or total expenditures.

TABLE 2
State Mandates, By Individual States: By Type, Origin, Direct Order
and Condition of Aid Distinctions, and Functional Category

	California (N=1479)	New Jersey (N=534)	N. Carolina (N=259)	Washington (N=487)	Wisconsin (N=654)
<u>Mandate Type</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>
Programmatic	10.9	3.3	23.2	9.3	10.8
Program	3.9	2.2	19.7	6.2	4.9
Program Quality	5.3	1.1	2.7	2.9	4.7
Program Quantity	1.7	0.0	.8	.2	1.2
Procedural	86.0	83.6	59.8	73.4	81.6
Reporting	22.4	2.2	14.7	10.7	16.3
Performance	42.9	46.6	22.4	27.7	37.6
Fiscal	9.4	13.9	10.0	13.6	14.1
Personnel	4.9	18.7	8.9	12.7	5.8
Plann./Eval.	2.2	1.1	1.5	6.4	2.4
Record Keeping	4.2	1.1	2.3	2.3	5.4
Revenue Constraint					
Base	3.1	12.7	17.0	17.3	7.7
Rate	1.2	4.5	.8	7.0	3.6
Expenditure Caps.	.5	2.2	1.5	2.9	2.1
Total	100.0	100.0	100.0	100.0	100.0
<u>Origin</u>					
Law	72.6	98.4	99.2	79.3	79.2
Executive Order	--	--	--	--	0.6
Adm. Reg.	27.4	1.6	0.8	20.7	20.2
Total	100.0	100.0	100.0	100.0	100.0
<u>Direct Orders and Conditions of Aid</u>					
Conditions of Aid	1.7	1.3	3.9	16.0	3.4
Direct Orders	98.3	98.7	96.1	84.0	96.6
Total	100.0	100.0	100.0	100.0	100.0
<u>Function</u>					
Agriculture	5.0	0.6	1.9	1.0	0.8
Community Development	6.2	21.0	11.6	19.9	6.6
Community Service	0.5	1.1	4.2	--	2.6
Education	8.7	0.6	0.4	--	4.9
Environment	6.2	2.4	2.3	9.0	6.6
Gen. Gov't.	31.0	42.5	39.8	37.2	31.5
Health	18.7	4.1	15.8	11.3	3.7
Public Assist.	4.6	1.1	8.9	--	1.5
Public Protection	11.3	10.1	9.3	11.7	12.4
Rec./Culture	.9	2.6	0.4	2.3	2.9
Transportation	5.1	0.7	3.9	1.2	9.5
Gen. Regs.	1.8	13.1	1.5	6.4	17.1
Other	0.0	0.0	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0

Source: Lovell, Catherine H., et al, Federal and State Mandating on Local Governments: An Exploration of Issues and Impacts. Graduate School of Administration, U of California, Riverside, June 1979, P69,

B. POLITICAL AND OPERATIONAL ISSUES

In one sense, the mandate issue is but a single expression of a long-standing friction in the relationship between states and local governments. Although the mandate issue seems to be a rather recent phenomenon, states have dictated both forms of local management and substance of public policy since the early days of our federation. For example, in 1815 North Carolina imposed the obligation on its local governments to remove stagnant pools. In 1855, the Illinois legislature instructed the City of Chicago to establish a Board of Sewage Commissioners as a means of avoiding further cholera outbreaks. And in 1865, the State of New York forced the City of New York to adopt building codes and later forced the city to disband its volunteer fire department and replace them with paid professionals.⁵

Over the years states have continuously established and abolished local governments, administered local functions, disbanded local agencies, removed local officials from office and generally demonstrated their local supremacy over their political subdivisions. In effect, local governments have always existed in a subordinative environment of being told what to do, how to do it, what functions to perform, and what resources can be used. According to one political scientist, localities are becoming increasingly "unwalled," unable to shape the scope and scale of their activities.⁶

Imbedded in the mandating issue are at least two distinct political issues: questions of federalism and questions of local control and accountability.

⁵Adrian, Charles and Ernest S. Griffith. A History of American City Government: 1775 - 1870. New York: Praeger Publishers, 1976, pp.5-54.

⁶Long, Norton. The Unwalled City: Reconstituting of a Constitutional Problem. New York: Basic Books, Inc., 1972.

The Federalism Issue

Many studies have shown that state mandating activity has been most robust since 1960. One report revealed that in five states studied, of all mandates recorded since 1941, 72 percent were issued between 1966 and 1978.⁷ This trend has led some observers to suggest that government by mandates has begun to replace government by negotiation. However, others have been more defensive of the centralized government movement arguing that certain aspects of environmental protection, health, safety, and civil rights could only be advanced through central control and leadership.

At least two factors have contributed to intensifying the impact of mandating on local governments: 1) a new functional partnership between the federal, state and local government and 2) the increased dependency of local governments on intergovernmental aids. In order to deal with domestic problems of the 1960's and 1970's, the federal and state governments increasingly made use of direct grants to localities conditioned by regulations, procedures, and program standards. The result has been that local governments have become, in a way, instruments for implementation of national and state policies. This partnership has also intensified with the involvement of general revenue sharing both at the state and federal level. With local governments becoming more dependent on intergovernmental revenue, there is even a greater tendency for federal and state policy priorities to prevail. Another wrinkle to the new partnership was added with the recent wave of tax-payer revolts resulting in many states limiting the fiscal growth of local government revenues and expenditures.

⁷Lovell, op. cit. pp. 70-74.

The Local Viewpoint. Many local officials resent state mandating programs and activities for local governments. Such actions are interpreted as a direct infringement on local autonomy, especially if the jurisdiction has adopted a home rule provision. In a general sense, home rule gives local governments relative freedom to draft, adopt, and amend their charters. In effect, home rule is often viewed as a provision which allows local governments to govern their own affairs without interference by the state legislature.

In addition, local government officials are quick to point out that they are closer to the people and are in the best position to respond in a flexible and diverse way to the problems confronting their communities. To the extent local taxing and expenditure decisions are determined by state mandates, it is felt that their flexibility and responsiveness to local issues and concerns is severely constrained.

Others point out that legislatures frequently adopt mandates with little or no information as to the cost or tax burdens they may impose on local governments. Because of this lack of cost-consciousness, local officials argue that sponsors of mandated programs are ill-equipped to compare benefits and costs of mandate legislation.

The loss of local control and cost-unawareness were two criticisms voiced by the Wisconsin Council on Local Affairs. The Council stated:

...the state is continually pressured by various interest groups, large and small, to mandate that certain procedures be followed by all cities and villages in the state. The state must carefully consider the extent to which state intervention in such matters--reasonable as it may appear in many instances--undermines the concept of home rule, impedes the fixing of responsibility, and frustrates the goal of local accountability.

It would be highly desirable if the state could achieve a reasonable degree of equity in financial resources among the various communities of the state and then expect that mandated statewide services be financed by state revenues and strictly local services be financed by local revenues.

Unless such an effort is made, it appears likely that the home rule will become increasingly meaningless in the future.⁸

The State Viewpoint. The claim of local autonomy, however, does not stand free from rebuttal. To the contrary, resistance to these arguments is fairly strong. Proponents of mandating view it as a perfectly legitimate tool for meeting problems, particularly those which involve a statewide impact or interest. Several reasons have been offered as justification for states requiring local governments to meet specified standards or provide certain functions. These would include, but not necessarily be limited to, the following:

1. A state may decide that some activities or services are of sufficient statewide importance that they should not be left to local discretion.
2. Statewide uniformity in the provision of a service may be deemed essential by the state legislature (or the courts).
3. Some state mandates may be supported on the premise that they provide a desirable economic or social good.
4. The home rule doctrine should not be interpreted as providing absolute autonomy to local governments; rather, the doctrine of state supremacy takes precedence, providing the legislature and the courts with authority to issue directives to local governments.

Thus it is argued that, while mandated programs may not be in accord with local priorities, they are used only with the intention to provide more uniform levels of service and treatment throughout the state and in policy areas which have significant statewide importance.

Trying to determine whether states have the right to mandate local activities may not be the important issue. Rather, most state and local officials would probably agree that states should have some latitude to enact mandates. The real question is not one of kind, but one of degree: to what extent can a distinction be made between "appropriate" and "inappropriate" conditions under which a state can issue local directives.

⁸Policy paper on state-local government relations, prepared by the Council on Local Affairs, Wisconsin Counties, December, 1975, pp. 5, 17.

The Advisory Commission on Intergovernmental Relations has identified four fiscal and political factors which need to be considered in determining the degree of "appropriateness" associated with a state's mandating activity. The first factor is of a constitutional or statutory nature, while the last three are considerations of what could be termed "fair-play".

1. The history and tradition of the state regarding home rule provisions.

Although Minnesota's constitution states in general terms that "any local government unit when authorized by law may adopt a home rule charter" (Article XII, Sect. 4), it also explicitly asserts state supremacy over its local governments by stating, "The legislature may provide by law for the creation, organization, administration, consolidation, division, and dissolution of local government units and their functions, for the change of boundaries thereof, for elective and appointive officers including qualifications for office and for the transfer of county seats" (Article XII, Sect. 3).^{*} Thus, from a constitutional perspective, it appears that the state's home rule provision is basically weak and, in effect, Minnesota's local governments are creatures and subjects of the state. Therefore, in the case of Minnesota, the question of appropriateness does not seem to be of a constitutional nature but, rather, may be more a question of "fair-play".

2. The extent to which the state contributes fiscal assistance to its local governments.

The degree of "appropriateness" associated with a state's mandating activity can partially be determined by evaluating the extent to which

^{*}Section 410.07 of Minnesota's Statutes outlines what can be contained in a home rule charter. Although the language appears to give local governments wide discretion to determine their government organization, functions, and revenue sources, there are many examples of state laws taking precedence over local charters. These state actions (many could be considered mandates) would appear to be legitimized under the language in Article XII, Sect. 3 of the State Constitution.

the state provides fiscal assistance, either in the form of categorical grants or general support, to its local governments. The greater the amount of aid to local governments the less fiscal responsibility localities have in providing goods and services. In other words, mandating is more "fair" if local governments receive substantial amounts of aid from state sources. It represents "foul-play" when local governments are primarily dependent on own source revenues.

Minnesota is a relatively strong fiscal partner with its local governments.⁹ In 1967, the state accounted for 51.6% of total state-local tax revenue - slightly below the national average. However, by 1978 the state's share of total state-local tax revenue had increased to over 69% - substantially higher than the national average.

State Share of State-Local Tax Revenue

	<u>1967</u>	<u>1969</u>	<u>1971</u>	<u>1973</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
U.S. Average	52.1%	54.6%	54.3%	56.2%	56.7%	56.9%	57.7%	58.5%
Minnesota	51.6%	60.8%	56.9%	64.7%	68.3%	68.0%	68.6%	69.1%

Minnesota also distributes far more aid to its local governments than the average state. In 1977, the latest year for which comparative data is available, Minnesota distributed \$418 per capita in state aid to local governments, compared to a national average of only \$276 per capita. Minnesota spends almost three times the national per capita average for general local government support and also spends considerably more than average for aid for education, public welfare, and highways.

Per Capita State Aid to Local Governments - 1977

	<u>Total</u>	<u>General Local Gov't Support</u>	<u>Education</u>	<u>Public Welfare</u>	<u>Highways</u>
U.S.	\$276	\$25	\$167	\$42	\$16
Minnesota	\$418	\$69	\$245	\$56	\$25

⁹Data for these comparisons from Advisory Commission on Intergovernmental Relations, Recent Trends in Federal and State Aid to Local Governments, July 1980 and U.S. Census Bureau's Governmental Finances and State Finances, various issues.

State aids accounted for 40% of total Minnesota local government revenue in 1978. State aids were 48% of total county revenue, 26% of total city revenue, 39% of total township revenue, and 53% of total school district revenue. Overall, as shown below, in 1978 local governments received \$1.59 in state aid for every \$1 raised in local taxes. The ratio varies from \$1.01 for school districts to \$4.52 for other special units.¹⁰

Dollars of State Aid Received for Every
Dollar of Local Taxes Raised, 1978

	<u>1978</u>
Counties	\$1.47
Cities	1.11
Towns	1.01
School Districts	1.71
Other Agencies	4.52
All Local Governments	\$1.59

These figures suggest that local governments do receive significant amounts of aid that can partially be used to support state mandated activities. Mandating under this type of fiscal partnership is far more fair than it is in other states where local governments receive very little state fiscal support.

3. Irrespective of home rule considerations, the severity of fiscal constraints generally faced by local governments--debt limits, levy limits property exempt from taxes, etc.

State mandating activity would be considered "foul-play" if, on the one hand, the state provided little fiscal support to its local governments, and on the other hand, restricted local governments from generating revenues from their own revenue base. Minnesota provides relatively generous general fiscal support to its local governments, but also limits the annual increase in state

¹⁰Report of the State Auditor of Minnesota on the Revenues, Expenditures, and Debt of the Local Governments in Minnesota, April 1980. Note: Percentage for townships and other government units excludes the University of Minnesota.

aids and property tax revenue allowed to each local government. Some local governments could conceivably be fiscally squeezed if the permitted revenue growth is not sufficient to meet increases in both mandated and other costs.

Minnesota imposes a series of three property tax limitations on local governments. All cities and towns are subject to a mill rate limit. Cities are also subject to a per capita levy limit, which is adjusted annually according to the consumer price index to reflect inflation. Better known is the so-called "6% levy limit" which applies to all county governments, as well as cities and towns over 2,500 population. This law originally established a "levy limit base" for each unit which was increased 6% annually. A local government's levy limit is the difference between this "base" and its state aids. The 1980 legislature changed the annual base adjustment to 8%.

Special exempt levies are allowed outside each of these property tax limitation laws. Since the exemptions overlap, but are not the same, simultaneous compliance with all three laws is a complex matter. In all cases, the most restrictive limit must be met.

The 8% levy limit law does allow a city's levy limit base to be increased by the amount of the costs of new services which are required by changes in state law. However, claims for such costs are subject to approval by the Levy Limitations Review Board which administers guidelines (see Appendix I) for determining which costs can be included. Only a one-time adjustment is permitted; a city cannot receive additional adjustments if the costs of the required services increase or if new service costs are mandated in subsequent years. For the 1981 levy year, payable 1981, about one-third of all cities have limited levies equal to their levy limits. Despite the

state's generous fiscal support of local governments, it is possible that the state may be falling short of "fair-play" principles vis-a-vis some cities that are squeezed by property tax limits and mandated costs.

4. The lack of any precise yardstick to sort out state from local service and funding responsibilities.

Determining the "appropriateness" of state mandates could be a relatively easy task if there was clear and distinct division of fiscal and functional responsibility between levels of government. State mandates can probably be best justified when there is a clear statewide policy objective to be achieved. However, the problem of distinguishing functions where state mandates might be judged appropriate is complicated by the fact that there are few areas that can be considered wholly state or wholly local in interest.

The ACIR has concluded that functions such as education, highways, welfare, health and environmental concerns are "intergovernmental" in scope while those such as police, fire, sanitation, and recreation are of a more local interest. This type of distinction, however, is based on broad functional areas and such a division of responsibility tends to be far more difficult to operationalize for individual programs.

Although it may be difficult to assign distinct functional responsibility between levels of government, the State of Minnesota, according to an ACIR survey, has been a leader among the states in transferring "intergovernmental" type functions from municipalities to higher levels of government.¹² Such functions as public welfare, environmental protection, planning and various social services in Minnesota are at least partially transferred or shared with either the counties, special districts, or with the state. To the extent that these types of functions are transferred to the state precludes the necessity for the state to issue local mandates.

¹² ACIR, op. cit., pp.19-21.

Based on these four general criteria, it appears that the State of Minnesota plays a relatively "fair" game of mandating. However, a potentially serious friction-point stems from state-imposed property tax limits. Such constraints can significantly offset the revenue support provided through the state's grant-in-aid system if total revenue cannot keep pace with increased costs and service demands. If the state wishes to continue to mandate local policies, it must make certain that its local governments can raise the revenue necessary to cover mandated costs without limiting unreasonably the ability of local governments to finance other non-mandated local services. Therefore, it may be desirable to more carefully examine the relationship between mandated costs and levy limits in Minnesota.

Political Accountability

Mandating raises important questions about "accountability". Political accountability assumes that the public should be able to hold governing bodies answerable for what they do, and should be able to control their policies and behavior. In order for the citizenry to adequately keep-in-check the activities of their government, they must be able to easily identify: 1) the origin of specific laws and regulations and 2) the public officials responsible for legislating those laws and regulations.

However, increased fiscal and functional interdependence among levels of government have blurred mechanisms for achieving accountability. In mandating situations, where local governments tax local taxpayers for actions for which they are not responsible, accountability becomes especially confusing for the constituents of those governments. It is difficult for the public to hold their local officials responsible for the mix of services their local government performs and for the allocation of resources in their local budget. Mandating allows for little or no negotiation or bargaining from local officials. In effect, local officials can only be held responsible for those actions they take to "cope" with or "adjust" to mandates.

The question of who should bear the cost is also of paramount concern among local officials. According to a recent ACIR report on state mandating, a large percentage of local government officials find many kinds of mandates appropriate if they are fully or partially reimbursed, but find them inappropriate if they are not compensated. Thus, it appears that their objections are often not directed at the mandate per se, but rather to the costs.

Mandated costs are passed on to local governments for a number of reasons. In many cases, the legislature may simply be unaware of the costs associated with a mandate. In other cases, there may be enough support to enact a new program, but not enough support to achieve full funding. The result is to legislate a program and mandate its implementation, leaving the costs to the local governments.

However, others believe that the concerns of local officials may be overstated. In many cases, mandates are for activities which the local unit would have performed even without a mandate. In other cases, the local government may be able to support the mandated costs through user fees or to shift the mandate and its costs to the private sector.

To answer the question of who should pay, it may be necessary to ask who benefits--people in a particular jurisdiction or people throughout the state? The ACIR suggests that mandates which benefit primarily local citizens should be paid from local resources while those benefits having a statewide benefit should be paid for by the state. However, measuring benefits is a very difficult task, both conceptually and technically. This is especially difficult when procedural and evaluative type mandates are considered.

The issue of who should pay may intensify as a result of pressure on state governments, including Minnesota, to limit state revenue and expenditures while at the same time maintaining fiscal limits on local governments. These forces may act to increase a state's tendency to pass on mandated costs, and local

governments may become squeezed by increased spending demands and constrained resources. The result could be a severely strained partnership between the two levels of government.

Measuring the Costs of Mandates

The most important, and unfortunately the most difficult, dimension of the mandating issue is to conceptualize, define, and measure the fiscal impact on local government. One method considers five concepts.¹³

Expenditure. Expenditure is a straight forward concept meaning the dollar amount spent on the mandated activity and probably represents the simplest way of measuring the fiscal impact. However, the concept ignores prior expenditures (if any) made by the local unit in support of a given mandated activity and fails to control for the level of local compliance to the mandate.

Imposed Costs. Imposed costs can be thought of as the difference in expenditures attributable to compliance with the mandate and the expenditure the unit would voluntarily make in absence of the mandate. Among economists, this concept is referred to as the "marginal costs" of the mandate. As a practical matter, however, it is very difficult to accurately measure such costs. To do so would necessitate considerable effort to determine what the local unit would have spent in the absence of the mandated program or activity.

Compliance. Without an understanding of the degree and nature of compliance by the local government, cost data cannot be interpreted correctly. From an economic standpoint, in order to compare two dollar expenditures, it is necessary to know what output level each represents. The full potential

¹³ Robert Kneisal, Adam Rose, and Catherine Lovel, "The Methodology Used for Collecting Fiscal Impact Data" in Federal and State Mandating on Local Governments: An Exploration of Issues and Impacts, pp. 114-120.

cost of a mandate must be calculated on the basis of full compliance. For example, in a case in which compliance is low and the activity, which is now mandated, was not performed before, does a small expenditure imply a small cost? Such an interpretation would be erroneous if the reason for low compliance were the avoidance of the large anticipated expenditure which would be required for full compliance. In this case, without knowledge of the compliance level, cost and expenditure data are counter-factual.

Another reason for the close attention to compliance is its importance in compensation or reimbursement schemes. When compliance is less than full, an accurate cost estimate can serve as the basis of reimbursement. But when the mandate is over-complied with, both a measure of the (over) compliance level and the cost are necessary to arrive at proper reimbursement.

Compliance is related to other general considerations as well. For example, were funding to depend upon compliance, the compliance level would probably be higher than for mandates in which funding does not depend upon compliance. In other words, mandates, which are funded by the mandating government or for which there is stipulated reimbursement, are more likely to be complied with than are unfunded mandates.

Funding. It is also necessary to ascertain the funding source for the mandated activity in order to determine if the cost of the mandate is incurred by the local government or is passed on to the mandating (or some other) government or to the private sector. This consideration is seen most clearly in the distinction between direct orders and conditions of aid. Costs of conditions of aid are more easily passed on to the granting government than costs which are not tied to grants. This is simply because most grants-in-aid pay for at least part of the expenditures for a program and allow a certain portion of the grant funds to compensate the recipient government for administrative and other costs.

Displacement. A dimension of fiscal impact separate from dollar cost is the effect which performing the mandated activity has upon the provision of non-mandated activities. When non-mandated goods are displaced by mandated goods, local governments are frustrated in their attempt to meet local preferences. Instead, they meet the preferences of the mandating government. Displacement effects (opportunity costs) are expected to be greater the less the jurisdiction has recourse to additional revenues. Ironically, when revenue constraint mandates are imposed as well, the local government's ability to raise additional funds to finance either mandated or non-mandated costs is further decreased. However, it should be emphasized that not all mandates have displacement effects and for those which do, the effects can vary significantly.

Clearly, the choice of how to identify and measure the costs associated with mandated programs and activities on local governments is critical for designing meaningful quantitative studies and formulating effective and efficient fiscal policies. Ideally, local costs should be measured with respect to actual imposed costs at full compliance while controlling for variation in funding sources and program displacement effects. Unfortunately, to examine fiscal effects from their ideal perspective will be difficult if not impossible to do. Those that have tried in the past have been forced to compromise on the methodology, resulting in only tentative, if not misleading, fiscal data.

Efficiency

Although the costs of mandates usually receive more attention, many local officials are also concerned with the administrative burdens associated with mandated programs and activities. Thus, it is also important to ask, in what ways does mandating affect the efficiency of local government?

The study by Lovell showed that 81 percent of existing mandates were procedural in nature.¹⁴ The implication is, when a procedure is mandated, the option to accomplish a given task in another way is inhibited. A procedure that is efficient in one situation may not be efficient in another. This is especially true since the level of "managerial professionalism" tends to vary significantly among local governments.

Efficiency considerations are an everyday concern for department operations. These concerns are expressed in terms of costs per mile, per client, per square foot of building, etc. Mandates which stipulate activities, requirements, and standards for construction, services or employee compensation without regard for varying production functions at the local level can result in significant burdens for some local governments. It must be understood that local government efficiency is influenced by a number of factors, some of which are not readily controllable. Economies of scale may, for example, prevail for many functions in larger cities or for cities within a metropolitan area where various cooperative management arrangements exist. Because of differences in production efficiency, mandates which require, for example, a public works department to accept bids from minority contractors or to build handicapped access ramps into buildings (meeting specific standards) can have significantly diverse fiscal and administrative effects among local governments.

¹⁴Lovell, et al., op. cit.

MANDATING IN MINNESOTA: ATTITUDES OF CITY OFFICIALS

Public officials most frequently ask two questions about mandates: 1) How many mandates exist, and 2) How much do they cost local governments? Unfortunately, for the very reasons discussed above, the answers to these questions are hard to come by and if by some chance some figures are produced, their interpretation for policy purposes would be, at best, ambiguous.

Although there hasn't been any attempt to complete a comprehensive cataloging of mandates in Minnesota, two surveys, one by the League of Minnesota Cities and the other by the State Planning Agency, provide insights to the impact of state mandates on city government. The surveys were not intended to provide a list of all mandates affecting city governments, nor was it their purpose to measure total cost impact. Rather, the surveys were designed to provide an indication of how city officials "perceive" mandates and to illustrate the fiscal impact of a few mandates on a small sample of cities. Although, based on these surveys, it is rather difficult to generalize the effects of state mandating on cities, several interesting observations can be made.

Officials surveyed believe state mandates create "moderate" cost burdens for their governments. On a scale of 1 to 5 (1=very little burden; 5=significantly high burden) city officials were asked, "To what extent do you think the level of state mandating is such that it is creating significant fiscal burdens for your government?" Two-thirds (17) of the 24 respondents indicated a burden of 3 or 4 on the scale (average score=3.3).

Of the 25 mandates listed in the survey, city officials who responded indicated that most were low to moderate in administrative burden (see Appendix 1). As might be expected, mandates requiring auditing or reporting procedures were perceived to be most burdensome. In general, there was a slight tendency for those mandates which created little administrative burden also to have a low cost burden. However, two

showed a distinct inverse relationship--unemployment and worker's compensation were generally perceived to have low administrative burdens but have excessive annual costs.

The cost burden associated with specific mandates varies significantly among the cities sampled. In the survey conducted by the League of Minnesota Cities, eight cities provided cost estimates for eleven mandates which the League believed to represent expensive and burdensome directives. Table 3 shows that the cost difference between the highest and lowest cities was substantial, both in terms of absolute dollars and costs per capita. With respect to per capita costs, the least amount of difference was realized in worker's compensation requirements where the lowest city had an estimated cost impact of approximately one-fourth of the highest estimated cost impact city--still a substantial difference. This degree of variation has significant implications for formulating policies that are designed to measure or offset these costs. Given this degree of variation, average cost estimates may be misleading and inaccurate for many cities and if these estimates are applied in connection with a fiscal note or reimbursement policy, they might make these programs unfair and inefficient.

In most cases, those officials surveyed indicated that mandated costs are paid from the general fund. This may reflect the fact that most of the 25 listed mandates are not conducive to alternative forms of local financing. However, many of the cities surveyed indicated that for certain mandates, which lend themselves to some type of pricing mechanism, fees and charges are often used to supplement revenue raised from the general fund (e.g. State Building Code, Uniform Utilities Accounting, Licensing Handgun Carriers, Building Permit Surcharge). It is interesting to note that only 3 of the 25 mandates listed (Metro-Council Land Planning, Government Energy Survey, and Shade Tree Program) were "widely" recognized as having direct state grants associated with their funding (see Appendix Table AII-2).

TABLE 3

Estimated Local Expenditures Required By
The State: A Sample of Eight Cities For Selected Mandates: 1978

Mandate	Highest City Cost	Lowest City Cost	Highest City Per Capita Cost	Lowest City Per Capita Cost	Lowest City Per Capita Cost as a % of Highest City Per Capita Cost
Absentee ballot	\$ 16,121	\$ 31	\$.178	\$.026	14.6%
Election day voter registration	44,725	32	.103	.014	13.5%
Handgun licensing	2,793	72	.159	.006	3.8%
Tort Liability	112,443	1,955	1.848	.259	14.0%
PELRA binding arbitration	83,250	800	.435	.064	14.7%
Unemployment compensation	778,354	91	1.792	.086	4.8%
Workers compensation	1,580,007	1,949	3.850	.915	23.8%
Shade tree program	163,602	2,588	6.890	.445	6.5%
Metro Land Use Planning Act	43,950	10,300	5.844	.430	7.4%
Energy surveys	50,830	680	.853	.087	10.2%
Peace officer training	7,814	73	1.154	.069	6.0%

Source: League of Minnesota Cities, unpublished report. Figures are based on a sample of eight cities using average yearly costs or 1978 cost when average costs were not available.

A vast majority of the respondents judged most of the mandates listed to be "appropriate" state directives. There was a slight tendency among city officials to judge the mandates listed as being appropriate provided the state allows them to generate local revenue to finance them, while a slightly smaller percentage judged the mandates to be appropriate only if the state pays for them. (see Appendix Table AII-3).

The city officials who were surveyed believed that state mandating activity had been increasing in recent years. Twenty-one of twenty-three respondents believed that the level of state mandating has increased over the last five years. However, although "financial administration" type functions received a slight edge, other functional areas were viewed relatively equally with respect to increased mandating activity (see Table 4).

When given a choice among various policy alternatives, city officials responding were split among three approaches. Although a state reimbursement was the single most preferred policy approach (nine of twenty-three picked this state action), eleven respondents preferred either removal of the levy limitation law (6) or thought it best for the state to take necessary steps to eliminate "inappropriate" mandates (5) (see Table 5).

Although this survey was limited to only 35 individuals representing 35 different cities, one general theme emerges which could probably be generalized to city officials throughout the state. When asked to define, identify and assess the fiscal impacts associated with state mandated policies, city officials will have difficulty arriving at a uniform set of responses. While the results of the survey indicate some degree of agreement with respect to the nature and impacts of state mandates, it is more safe to conclude that state mandating represents an ambiguous problem to city government officials.

The ambiguity seems to be a function of both a lack of conceptual agreement as to what mandates are and the "real" fiscal differences which exist among cities with respect to how specific mandates affect government spending and taxing decisions.

TABLE 4

<u>Number of Respondents</u>	<u>Areas Perceived as Having Greatest Increase in Mandating Activity</u>
10	Financial Administration (accounting, auditing, reporting, fund management)
5	Personnel Procedures (training, hiring and termination)
5	Labor Relations (negotiations, arbitration, etc.)
4	Compensation (wages, pensions, worker's compensation)
5	Other General Government (records, citizen participation, elections, council procedures)
4	Environment (wastewater treatment, impact statements)
3	Public Safety (police and fire protection)
1	Public Works (sewers, streets, construction, sanitation, etc.)
5	Planning (comprehensive planning, land use planning, zoning etc.)
	Other: Please specify below:
	<u>Landfill, Energy Codes</u>

TABLE 5

<u>Number of Respondents</u>	<u>Mandating Policies Preferred by Respondents</u>
6	Removal of levy limitation law.
2	Allow special levy for mandated costs.
1	Require a fiscal note process (cost impact statement) which would make the legislature aware of the fiscal impact of their programs(s) on local governments.
5	The state should inventory all mandates, monitor future mandating legislation and eliminate "inappropriate" mandates.
9	The state should reimburse local governments for mandated programs, activities, and procedures.

POLICY ALTERNATIVES: A NATIONAL PERSPECTIVE

Several strategies have been adopted by states to guard against unreasonable mandating. What follows is a brief description of those strategies.

Legislative Strategies

Examples of this approach would include such actions as a constitutional amendment restricting a state's ability to mandate (only three state constitutions-- Alaska, Louisiana, and Pennsylvania--limit the power of the state from imposing mandates upon local governments); a strict adherence to home rule (in Oklahoma and Oregon, courts have held that home rule charter provisions supersede state law provisions); or a requirement of extraordinary majorities in the legislature to impose mandates.

Reorganization Strategies

These types of actions focus on administrative structures and resource transfer systems. Examples include the devolution of state power, functional transfers between levels of government, grant simplification or grant consolidation.

Transfer of functional responsibilities from local units to higher levels of government is one way to eliminate the need to mandate. Many states have transferred responsibility for functions or components of functions from municipalities to counties, special districts, and the state, thereby lessening the need to mandate.

Purging Strategies

In recent years, attention has been paid increasingly to the desirability of routinely phasing out programs and procedures which have outlived their purpose. Since government has little experience with this approach, a set of well-articulated policies has not yet emerged. However, many states have either initiated periodic review procedures or have passed "sunset" legislation under which programs and

procedures are given automatic termination dates. Programs can only be continued if specifically reauthorized. Such a strategy can also be used to purge mandates.

With respect to mandating, it is important to consider whether only program mandates should be examined or if procedures should also be included. If cutting the number of mandates is the objective, then it would seem appropriate to examine procedural mandates in particular since they tend to outnumber program mandates by a considerable margin. On the other hand, if the objective is to cut the most expensive mandates, then attention should probably focus on program mandates.

Another important question associated with the purging strategy is who should be responsible for program review and purging. Three options seem to be available: 1) the administering agency could be responsible for the review and purging of its own mandates; 2) all administrative mandates could be subject to legislative oversight and modification; and 3) an independent mandate review board could be established.

Information Strategies

Two types of Information Strategies have evolved with respect to state mandating--technical assistance and impact analysis (fiscal note).

Technical Assistance. States often use technical and management assistance techniques to help local jurisdictions cope with burdens associated with state mandated policies. The state, through technical assistance, attempts to "team-up" with its local governments to resolve implementation problems arising from specific mandates. Another approach is simply to provide management assistance designed to streamline local government administration in general, thereby making local governments better able to meet mandates effectively.

Impact Analysis. The second type of information strategy currently being pursued is impact analysis, more commonly referred to as fiscal note legislation. In general, fiscal note refers to analysis which is undertaken to determine what fiscal impact a state legislated mandate may have on local governments.

As Table 6 indicates, twenty-two states have instituted some type of fiscal note process. With three exceptions, this process covers all state legislation affecting local governments. In Florida, fiscal notes are required only for state agency rules, while the legislature is directed only to consider the practice. In Georgia, fiscal notes are required only on state legislation dealing with pensions. In Minnesota, there is an executive procedure requiring implementing agencies to estimate the local costs associated with their programs; however, the process is not binding on the legislature.

It is important to point out that, for a vast majority of the states, fiscal notes for local governments do not extend to agency rules or Governor's orders and are not tabulated at the end of the fiscal year. However, in most states in which fiscal notes are used, an ACIR report concluded that the procedure helps to make state legislatures more cost conscious and aware of the effects of its actions on local governments.

To be of value, the fiscal note process must be able to adequately measure the most immediate and direct compliance costs of mandates for local governments. However, as discussed earlier, a fundamental problem emerges when trying to measure marginal costs resulting from mandated actions imposed on local jurisdictions. In order to be operative, a marginal definition of mandated costs would necessitate considerable effort to determine what the jurisdiction would have spent in the absence of mandated actions. This problem is compounded

TABLE 6
Fiscal Notes for Local Governments

State	Does State Require Fiscal Notes		Source		Effort to Adopt in Foreseeable Future?	
	Yes	No	Statute	Legisla- tive Rules	Yes	No
Alabama	x	Senate only		x	x	
Alaska ¹						x
Arizona		x			x	
Arkansas		x			x	
California	x		x			
Colorado	x			x		
Connecticut		x			x	
Delaware ²				x		
Florida ³	x	State agencies only		x	x	
Georgia	x	Pensions only	x		x	
Hawaii		x			x	
Idaho	x			x		
Illinois		x			x	
Indiana	x			x		
Iowa	x			x		
Kansas	x		x			
Kentucky ⁴				x	x	
Louisiana		x			x	
Maine		x			x	
Maryland	x		x			
Massachusetts		x				x
Michigan		x			x	
Minnesota ⁵					x	
Mississippi		x				x
Missouri		x			x	

State	Does State Require Fiscal Notes		Source		Effort to Adopt in Foreseeable Future?	
	Yes	No	Statute	Legisla- tive Rules	Yes	No
Montana	x		x	x		
Nebraska	x			x		
Nevada	x		x			
New Hampshire		x				x
New Jersey ⁶				x		
New Mexico		x				x
New York		x				x
North Carolina		x				x
North Dakota	x			x		
Ohio ⁷						x
Oklahoma		x				x
Oregon	x			x		
Pennsylvania	x			x		
Rhode Island		x				x
South Carolina		x				x
South Dakota ⁸	x	administrative rules only				x
Tennessee	x		x			
Texas	x			x		
Utah	x			x		
Vermont		x				x
Virginia ⁹			x			x
Washington ¹⁰	x					x
West Virginia		x				x
Wisconsin	x		x			
Wyoming		x				x

NOTE: Not all respondents answered all questions.

¹ Unstated policy in both houses to have a fiscal note.

² Informal procedure; information readily available.

³ Legislature is to consider using fiscal notes.

⁴ Can be requested by any legislator.

⁵ There is a Governor's rule to this effect but legislative adherence is spotty.

⁶ Permissive but not required nor strictly complied with.

⁷ Leadership in general assembly attempts to provide comparable information.

⁸ Bills with local impact are noted but this is not required.

⁹ On books, but not implemented.

¹⁰ Process not required; carried out in Governor's office.

Source: ACIR, 1977 fiscal note questionnaire.

Source: Advisory Commission on Intergovernmental Relations, State Mandating of Local Governments, Washington, D.C., 1978, p.33.

by the fact that local jurisdictions vary considerably with respect to taste and preference for public goods and managerial efficiencies. Thus, the imposed cost resulting from a state mandate will also vary significantly (as evidenced by the survey results discussed in the preceding section.)

Fiscal Strategies

There are basically two fiscal strategies states can use to alleviate the adverse fiscal impacts on local governments resulting from mandating--revenue expansion or cost reimbursement.

Revenue Expansion. A common strategy among state governments is to either expand local government revenue-raising authority or allow it to exceed its present revenue limit for the purpose of financing mandated costs.

The ACIR reported that since 1970, 18 states and the District of Columbia have adopted some form of control over local taxing and spending powers. Nine of these states--Kansas, Minnesota, Wisconsin, Indiana, California, Washington, Alaska, Iowa and Ohio have adopted property tax levy limits. These "lid" laws are generally designed either to restrain local government revenue growth or provide property tax relief by reducing local governments' reliance on the property tax to finance goods or services.

One approach, which falls short of totally removing local tax limits, is to exempt levies for mandated costs, thus giving local governments at least the legal capacity to pay for state imposed costs. Currently, Minnesota is the only state which explicitly allows for such an exemption.

Cost Reimbursement. State financial support for mandated costs can be made either through automatic formula distributions, or through reimbursement for all, or specified portion of, costs incurred. After the fact reimbursement is dependent upon an agreed upon method for estimating or certifying costs. Ten states have adopted some form of reimbursement policy with

TABLE 7

States That Use
Local Reimbursement Strategy

	<u>Require Fiscal Note</u>	<u>Comments</u>
Alaska	X	Acceptance by local voters required.
California	X	
Florida	X	Reimbursement on taxing authority required.
Hawaii		
Louisiana		Acceptance by local voters or reimbursement required.
Maine		Reimbursement for 50% of revenue loss from new property tax exemptions only.
Michigan		
Montana	X	
Pennsylvania	X	Reimbursement of sales and property tax exemptions only.
Tennessee	X	

California having the most comprehensive mandate-cost reimbursement program. (see Appendix III). It is interesting to note, however, that while most state-level fiscal strategies rely on fiscal notes to guide their actions, only six of the ten states with reimbursement policies require fiscal notes (see Table 7).

The ACIR advises that three fundamental issues be considered before adoption of a reimbursement policy:

1. Should this commitment be enacted by statute or by constitutional amendment?
2. Should this commitment be restricted to certain reasonably well defined areas or broadly focused in scope?
3. Should this commitment be made retroactive as well as prospective?

The choice between a statutory or constitutional approach to implementing a state reimbursement policy involves a tradeoff: while the former is quicker, the latter is surer. The state legislature can adopt a statute in the course of its normal deliberations. A constitutional amendment, however, requires approval by the electorate and, therefore, cannot be implemented until after ratification.

A constitutional amendment is favored by those who fear that a state statute will not be binding--that the actions of one legislative session are not binding on a future legislature. In this viewpoint, a statutory requirement is not really regarded as a firm commitment; it may express only an intent, but need not set a pattern or a rule for the future.

The use of a constitutional amendment is considered by some as being too rigid. It is, in fact, binding and may seriously circumscribe the flexibility of the legislature to deal with future, unforeseen problems. For this reason then, even some advocates of state reimbursement for mandated costs regard the constitutional amendment approach as extreme.

Those favoring a financial commitment by the state government may also differ as to how inclusive this responsibility should be. Some favor a narrow scope--covering only specific areas or types of mandates. One approach is to use reimbursement only when costs are large and/or easily and accurately measured and to otherwise rely on general support aid for providing assistance to local units. Once a "safer" or "surer" program has been developed, experience can be relied on to reveal further possible applications. A broad scope is favored by those who feel that limiting reimbursement to only mandates whose costs are easily measured and are relatively high would ignore the real cumulative impact of many small mandates that are not by themselves expensive.

Although a retroactive application of the state financial responsibility may seem both logical and symmetrical, prospective application is simpler in that it does not require a re-analysis of all existing laws and estimation of their costs. As a practical consideration, it is far less expensive and easier not to make a reimbursement program retroactive.

ACIR Recommendations on State-to-Local Mandating

In addition to the five strategies highlighted above, the ACIR has set forth eight policy recommendations relating to the state-local mandating issue. These recommendations are listed below:

DEFINING AND CATALOGUING STATE-INITIATED MANDATES

The Commission concludes that a piecemeal, ad hoc process of adopting state-initiated mandates clearly impacts upon the decision-making process at local governmental levels. The Commission therefore recommends that the legislative or executive branch, or both jointly, define and then catalogue existing state-initiated mandates originating by legislation, executive order, or administrative rule and regulation. The Commission further recommends that all state-initiated mandates adopted in the future be added to the catalogue and that the estimated costs imposed on local governments by all new mandates be tabulated at the conclusion of each legislative session.

The Commission further recommends that state mandates which are a result of federal and court initiatives be included in the catalogue with appropriate annotation.

A MANDATING REVIEW PROCEDURE

The Commission concludes that a review and screening process of past and future mandates is essential to the development of an orderly system of state-local relations. The Commission therefore recommends that the legislative or executive branch, or both jointly, conduct a review of mandates affecting new programs and service levels, retirement systems, and the wages, hours, working conditions, and qualifications of employees initiated by legislation, executive order, and administrative rule and regulation.

STATE-INITIATED MANDATES--A STATEWIDE POLICY OBJECTIVE STATEMENT

The Commission concludes that state-initiated mandates, executive orders, and administrative rules and regulations are an effective and necessary mechanism when restricted to implementing or facilitating achievement of statewide policy objectives. The Commission therefore recommends that the state legislature and executive branch adopt, either by statute or rules of procedure, provisions to assure that the statewide policy objective is clearly specified at an early stage prior to adoption. The Commission further recommends that legislative and executive consideration be deferred on any proposed mandate lacking the statewide policy objective statement.

LID LAWS AND MANDATES

The Commission concludes that unreimbursed state mandates in conjunction with "tight" state-imposed tax or expenditure controls can both disrupt the provision of local services and distort the priority decision process of local government officials. The Commission therefore recommends that those states imposing tax or expenditure limit laws either reimburse local governments for all the direct costs imposed by state mandates or exempt from all state-imposed local levy or expenditure limits those local cost increases mandated by the administrative, legislative, or judicial actions of the state government.

STATE-INITIATED PROGRAM OR SERVICE LEVEL MANDATES-- PARTIAL REIMBURSEMENT

The Commission concludes that totally unreimbursed state mandates requiring new programs or enhanced service levels in highly intergovernmental or "spillover" functions such as education, health, highways and welfare should be partially financed by the state. The Commission therefore recommends that state legislatures appropriate sufficient amounts either by a partially reimbursed state mandate or by a categorical grant-in-aid program to meet the state share of these additional costs. The Commission acknowledges that the case for partial state financing is most persuasive in those state-local fiscal systems where the local share of state-local expenditures is above average and/or where local revenue powers are relatively restricted and/or where state aid to local government is below average.

MANDATES AFFECTING LOCAL RETIREMENT SYSTEMS-- FULL REIMBURSEMENT

The Commission reiterates its previous policy conclusion and recommendation: that underfunded, locally administered, retirement systems pose an emerging threat to the financial health of local governments and that such systems should be strictly regulated by the states, or alternatively, be consolidated into a single state-administered system. The Commission further recommends that states fully finance their mandates that increase retirement benefit levels and costs beyond widely accepted tests of reasonableness.

LOCAL EMPLOYEE WORKING CONDITIONS-- FULL REIMBURSEMENT

The Commission reiterates its recommendation that states adopt a policy of keeping to a minimum the mandating of terms and conditions of local public employment, which are most properly subject to discussion between employees and employers. To minimize state intrusion into matters of essentially local concern, the Commission recommends that all state-proposed mandates involving employee compensation, hours, working conditions, and employee qualifications require full state reimbursement. The Commission further recommends that state mandates affecting personnel qualifications for local employees in state-aided programs be viewed as appropriate state actions that do not require reimbursement.

THE REIMBURSEMENT PROCESS-- PROCEDURAL SAFEGUARDS

The Commission concludes that an effective state reimbursement program requires the following safeguards: a) a fiscal note process, b) strict interpretation of state-initiated mandates, and c) an appeal and adjustment provision to a designated state agency for local governments whose claims to state payments are in dispute.

The Commission therefore recommends that a state agency be designated to resolve local government claims arising from inadequate state funding, or misunderstanding, or lack of information about the mandate when adopted.

Excluded from these procedural safeguards are mandates that a) can be traced to a federal legislative, executive or judicial action, b) emanate from local government requests, or c) impose only minor increases in net local costs or impose duties of a routine character.

POLICY ALTERNATIVES: SETTING THE COURSE FOR MINNESOTA

A. Should the state attempt to catalogue all existing state-to-local mandates?

Although numerous conceptual and methodological problems exist, the ACIR is of the persuasion that "the first step necessary to come to grips with state mandating is to catalogue or inventory existing state mandates."¹⁵ The ACIR feels that the benefits of such a process would be to provide the basis for an overview of state-local decision-making authority to help distinguish between state, federal, and court initiatives. It would also provide the first step for a review process of state mandates--a process the Commission asserts is necessary to rationalize mandates in terms of current policy concerns rather than objectives of the past.

Only a few states have attempted to catalogue existing state-to-local mandates. Probably the most ambitious effort was a study done by the State of Michigan where "all state requirements which provide for any action or provision of any service by any local government" were catalogued.¹⁶ More specifically, The Michigan Statutes Annotated was examined with special attention directed to the key words "shall", "must", "is required to", and "is the duty of" since these often indicated requirements. This broad definition was used in order to generate a complete picture of the relationship between the state and its local governments.

Using a broad definition (the importance of how a mandate is defined is clearly illustrated here), the Michigan study uncovered over 2,000 mandates spanning thirteen general functional areas.

Although many of the mandates seem to have significant implications in terms of either cost, procedures, or program/service substance (e.g. An employer

¹⁵ACIR, op. cit., p.7.

¹⁶Office of Intergovernmental Relations, Department of Management and Budget, State of Michigan, Existing State Requirements of Michigan Local Government, January 1980.

must provide proper medical services to an employee with a work-related problem), a vast majority could be characterized as either minor or "common-sense" activities (e.g. If a certificate changing the name or address of a business is filed, the county clerk shall attach it to the certificate on file). The question is whether such a list contributes meaningful and constructive insights into the nature of the state/local partnership such that effective policies can be devised or new intergovernmental principles be formulated?

Before embarking on such an activity, it is imperative for the state to determine its primary objective and to carefully weigh the pre-conceived benefits against the anticipated costs associated with cataloguing state mandates.

B. Should the State of Minnesota enact a mandate-reimbursement program?

Any proposal for a mandate reimbursement program should not be considered in a vacuum. Rather it is essential to evaluate this single policy approach in a broader context which takes into consideration other significant policies and trends that characterize the state's intergovernmental fiscal system.

As was discussed earlier, the State of Minnesota has taken measures to restrict local revenue capacity by legislating debt and levy limitations on local governments. However, the state also distributes extensive aids to local governments. Yet, it is likely that state and federal aids will not grow as rapidly in the 1980's as they did in the 1970's. In addition, the 1979 Minnesota legislature partially indexed the state's personal income tax thereby making state revenue growth less sensitive to inflation. As a result, any subsequent slow-down in the state's economy will tend to further jeopardize increases in state-local aids.

If state aids do grow less rapidly and if levy limits unduly constrain local revenue-raising abilities, then mandated costs could become a significant problem. On the other hand, this reasoning suggests that, in the long run, the state's general state-local fiscal policy may be much more important to local governments than state reimbursement for mandates. In this context, the important question seems to be: From what source will local governments feel the greatest fiscal pressure--from increased mandated costs or from constrained revenue sources resulting from lower levels of state aid or by limitation laws, or both?

Under conditions which may reduce the level of state general support aid to local governments, a mandate reimbursement policy may become necessary, not so much as an alternative aid program, but as a deterrent against future state mandating. If the state's own revenues are strained, it could be tempting to legislate popular programs and mandate their costs and administration to local jurisdictions. However, a mandate reimbursement program may act as a protective shield from such action.

It is doubtful, however, that a reimbursement policy, by itself, would be sufficient to off-set the potentially greater adverse effects of slower growth in state spending, indexation, and levy limitations working in harmony to restrict the flow of revenue to local governments. In fact, if it is deemed necessary to enact policies which directly address the local fiscal problem associated with state mandating, then the first policy action perhaps should be a fiscal note process for legislation which has a fiscal impact on local governments. After such a policy has been tried for a reasonable duration, then the issue of a reimbursement program could be evaluated and its need and feasibility better assessed.

Such an incremental approach towards enacting a mandate-reimbursement

program has several advantages. By first conducting a fiscal note process, the state can better understand the dynamic dimensions associated with mandated policies before making an additional aid commitment to local governments. A fiscal note process will also allow state officials to better understand the problems of administering reimbursement programs, some of which are:

1. How to measure and standardize costs to all local jurisdictions when, in fact, there are significant differences among communities.
2. How to determine what types of state directives will be covered by the program and to establish practical conditions under which reimbursement will be made.
3. How to determine the most efficient and effective administrative structure and process for administering reimbursement including who will do the fiscal note process, what agency will implement the program, what role local governments will play, if there will be an appeals process and how funds will be distributed.

It might even be discovered that a fiscal note process, which provides reasonable cost estimates of mandated programs and allows local government input during legislative review, may be sufficient to curtail mandating legislation.

C. Should changes be made in the levy limitation law to allow local governments greater revenue flexibility in meeting state-imposed costs?

It was shown earlier that Minnesota receives fairly high marks with respect to providing general support aid to local governments, thereby enhancing a "fair-play" environment in which to mandate local programs and activities. However, if the level of this fiscal support does not keep pace with local needs and if the state maintains tight property tax limits on local governments, a "foul-play" environment may emerge as localities are squeezed between spending demands and constrained revenue sources. In such a situation, the ACIR concluded that unreimbursed state mandates, in conjunction with "tight" state imposed tax or expenditure controls, can both disrupt the provision of local services and distort the priority decision process of local government officials. To correct this situation, the ACIR recommended that, as an alternative to reimbursement, levies and expenditures for mandated costs should be exempted from state-imposed

local tax and spending limitations.¹⁷

It may be desirable, therefore, to modify the levy limitation law. Although the current law already allows a city to adjust its levy limit base for those costs associated with "new services which are required by state law" (M.S. 275.52, Subd. 4b), once a city is granted approval to make such an adjustment for any given year, it cannot make similar adjustments in future years. By allowing local governments to make mandate-cost adjustments annually, two important intergovernmental principles can be achieved:

- The local fiscal squeeze, which results from constrained revenue sources and increasing spending demand, would be partially alleviated, at least with respect to fiscal pressure resulting from state mandated actions.
- Local government accountability would also be enhanced because such provision would provide local government officials the opportunity to make visible those cost increases resulting directly from state-imposed actions. This would allow local constituencies to identify and separate local from state policy initiatives.

In addition to enhancing the state's "fair-play" position, an annual levy limit adjustment offers at least two practical benefits relative to other approaches.

- The bureaucratic structure and process is already operative in the form of The Levy Limitations Review Board. Thus, the additional direct costs to the state for this type of action should be minimal, possibly limited to increasing slightly the Review Board's staff support in order to handle a potentially higher annual volume of claims.

¹⁷ACIR, p.9.

--Similar to a state fiscal note process, by allowing local officials to submit claims for annual levy limit adjustments for mandated costs, information and experience can be gained in estimating actual costs of mandates for individual cities. Based upon the experience of this procedure, it may be easier to design and implement a mandate reimbursement program, if ever deemed necessary.

APPENDICES

APPENDIX I

Levy Limitation Review Board

I. LEVY ADJUSTMENT PROCESS

In order to obtain a levy limit base adjustment from the Levy Limitation Review Board, the governmental subdivision must apply for it. This is done by addressing a letter to the Commissioner of Revenue requesting a base adjustment from the Levy Limitations Review Board stating the amount of base adjustment requested, which of the four reasons (or a combination of them) are being used to support the requested base adjustment, and the calculations which justify the base adjustment.

Only one base adjustment can be granted by the Levy Limitations Review Board. (For example, a county government that previously received a base adjustment for surplus funds expended in calendar year 1971 cannot at a later date receive another base adjustment for the cost of new services required by changes in state law.) However, one base adjustment can be made for more than one reason. (For example, a county could receive a base adjustment for both the expenditure of surplus funds in calendar year 1971 and for the cost of new services required by changes in state law, if done at the same time.)

Finally, a special allowance is granted to cities and towns. If a city or town qualifies for the adjustment to bring its levy limit base per capita up to 85% of the county average, and it has not received this adjustment in a prior year, this adjustment can be made even if the city or town previously received a levy limit base adjustment from the Levy Limitations Review Board for one or more of the other three reasons (surplus funds expended in calendar year 1971, the cost of new services required by changes in state law, or the increased operating expenses of new or expanded services resulting from annexation, consolidation or incorporation). In addition, a city or town that received an adjustment to only 80% of the county average in a prior year may also have its current levy limit base per capita increased to 85% of the county average.

II. NEW SERVICES REQUIRED AFTER 1970 BY CHANGES IN STATE LAW

A. Allowed So Far

1. Costs of labor negotiations and developing a written contract.
2. Costs of preparing for binding arbitration.
3. Costs of assessor's notices of real estate value.
4. Costs of unemployment compensation.
5. County-wide system of permanent voter registration.
6. Compliance with OSHA regulations.
7. County shoreland ordinance administration.

8. Classification and administration of records pursuant to the Data Privacy Act.
9. Elimination of architectural barriers for handicapped access.
10. Taxation of severed mineral interests.

B. Not Allowed So Far

1. New employees and maintenance costs for new public safety building - Federal Omnibus Crime Control and Safe Streets Act of 1968.
2. Costs of complying with new rules of criminal procedure.
3. Costs of implementing amendments to the Minnesota Human Rights Act.
4. Costs of Assistant Fire Chief.
5. Costs of neighborhood plans.
6. Costs of city human resources commission meetings.
7. Certification of building official.
8. Costs of ambulance-paramedic service.
9. Increased costs to city of voter registration.
10. Increased costs of worker's compensation insurance.
11. Multiple receipt procedures for game and fish licenses.
12. Expanded probation services under the Community Corrections Act.
13. Increased costs of operating under the Community Health Services Act.
14. Additional duties and staffing for the Registrar of Probates's Office.
15. Loss of property tax on electric transmission lines, due to reduced county-wide average mill rate resulting from construction of new power plant within the county.

C. Reasons for Disallowance Include:

1. The service is not a new service; that is, it was required prior to 1971.
2. The service is not required by a Minnesota law.
3. The levy for the costs of the new service can be claimed as a special levy.
4. The costs of the new service was claimed as a special levy in a prior year and folded into the governmental subdivision's levy limit base when the special levy was abolished.

Source: Minnesota Department of Revenue, Local Government Aids and Analysis Division.

APPENDIX II

Results of State Planning Agency Survey of City Officials' Attitudes Toward State Mandating

A survey questionnaire was sent to city managers or financial officers in 35 cities. Although not a random sample, the 35 cities were selected, with the assistance of the League of Minnesota Cities, to represent a variety of different-sized cities throughout the state. The questionnaire solicited responses concerning a list of 25 mandates, also identified with the help of the League of Minnesota Cities.

The small sample size does not permit generalization concerning attitudes of local officials throughout the state. Rather, the results should be viewed only as suggestive of the types of attitudes that may be representative of local officials.

TABLE AII-1

**Degree of Administrative Burden
of Selected Mandates
(Number of Respondents)**

State Mandates 1978 Statutes	Degree of Administrative Burden			
	Very Low	Low	High	Very High
(1) Minimum Ambulance Standards and Training Requirements (M.S. 144.803)	6	5	3	
(2) Mandatory Flood Plain Zoning (M.S. 104.04)	4	12	3	
(3) Municipal Shoreland Development Regulations (M.S. 105.485, Sub. 6)	6	6	2	
(4) Required Installation of Wheelchair Ramps (M.S. 471.464)	10	6	2	1
(5) Handicapped Access to Polling Places (M.S. 204A.09, Sub. 3)	12	8	2	2
(6) Handicapped Access to Public Buildings (M.S. 16.85)	6	6	3	3
(7) State Building Code Application (M.S. 16.851)	1	6	13	7
(8) Data Privacy Law: Regulation of Information on Individuals (M.S. 15.169)	3	6	10	6
(9) Retention of Public Records and Regulation of Accessibility (M.S. 15.17)	4	9	9	2
(10) Minimum Recruitment Standards for Peace Officers (M.S. 626.843)	2	10	4	5

State Mandates 1978 Statutes	Degree of Administrative Burden			
	Very Low	Low	High	Very High
(11) Minimum Interest on Utility Deposits (M.S. 325.637)	5	3	2	1
(12) Uniform Utilities Accounting System (M.S. 216.810)	3	3	8	1
(13) Owner Reimbursement for Appraisal Fee in Eminent Domain (M.S. 117.232)	4	8	1	
(14) Licensing of Handgun Carriers (M.S. 624.714)	3	13	3	
(15) Metropolitan Council Land Planning-Local Govt. Cooperation (M.S. 473.06)			5	6
(16) Mandatory Energy Survey of Government Buildings (M.S. 116H.124)		9	11	5
(17) Shade Tree Program (M.S. 18.023)		4	10	12
(18) Financial Reporting (M.S. 471.697 and 47.698)		3	10	4
(19) Unemployment Compensation: Mandatory Coverage for all Local Governments (M.S. 268.06, Sub. 27)	4	8	10	6
(20) Workers Compensation Requirements and Increases (M.S. 176.011 to 176.82)	1	8	6	9

State Mandates 1978 Statutes	Degree of Administrative Burden			
	Very Low	Low	High	Very High
(21) Pension Benefit Increases (M.S. 356.18 to 356.60)	5	11	3	
(22) Minimum Wage (M.S. 177.24)	8	11	3	1
(23) Building Permit Surcharge (M.S. 16.866)	4	14	4	
(24) Origin and Cause of Fires Investigated; Report Submitted to State Fire Marshall (M.S. 299F.04)	2	11	10	
(25) Uniform Municipal Contracting Law (M.S. 471.345)	2	12	6	2

TABLE AII-2

Sources of Local Funding for Selected Mandates
(Number of Responses)

	Source of Funding									
	State Grant		Special Assessments		User Fees or Charges		Property Tax (General Fund)		Other**	
	<u>100%</u>	<u>P*</u>	<u>100%</u>	<u>P*</u>	<u>100%</u>	<u>P*</u>	<u>100%</u>	<u>P*</u>	<u>100%</u>	<u>P*</u>
(1) Minimum Ambulance Standards and Training Requirements (M.S.144.803)		2				5	8	6		
(2) Mandatory Flood Plain Zoning (M.S.104.04)				1	1	1	15	2		
(3) Municipal Shoreland Development Regulations (M.S.105.485, Sub.6)		1			1		12	1		
(4) Required Installation of Wheelchair Ramps (M.S.471.464)		2	4	2	1	1	13	3	4	1
(5) Handicapped Access to Polling Places (M.S.204A.09, Sub. 3)					2		18		1	
(6) Handicapped Access to Public Buildings (M.S.16.85)					3		18		1	
(7) State Building Code Application (M.S.16.851)	1	1			7	11	4	11		
(8) Data Privacy Law: Regulation of Information on Individuals (M.S.15.169)					1	2	21	2		

* Partially financed from this source.

** Including Federal-source revenues.

TABLE AII-2 (cont'd)

Source of Funding

	State Grant		Special Assessments		User Fees or Charges		Property Tax (General Fund)		Other **	
	100%	p*	100%	p*	100%	p*	100%	p*	100%	p*
(9) Retention of Public Records and Regulation of Accessibility (M.S.15.17)					1	1	21	1		
(10) Minimum Recruitment Standards for Peace Officers (M.S.626.843)		2				2	18	3		
(11) Minimum Interest on Utility Deposits (M.S.325.637)					7		1		2	
(12) Uniform Utilities Accounting System (M.S.216.B10)					11	1		1	2	
(13) Owner Reimbursement for Appraisal Fee in Eminent Domain (M.S.117.232)	1	2	1		1	1	3	3	1	2
(14) Licensing of Handgun Carriers (M.S.624.714)					1	2	13	2		
(15) Metropolitan Council Land Planning-Local Government Cooperation (M.S.473.06)	3	6				1	2	7		1
(16) Mandatory Energy Survey of Government Buildings (M.S.116H.124)	5	7					11	6	2	6
(17) Shade Tree Program (M.S.18.023)	4	16		3	1	3	5	13		1
(18) Financial Reporting (M.S.471.697 and 47.698)			1		1		21		2	
(19) Unemployment Compensation: Mandatory Coverage for all Local Governments (M.S.268.06, Sub. 27)					1	1	19	3	2	2

TABLE AII-2 (cont'd)

Source of Funding

	State Grant		Special Assessments		User Fees or Charges		Property Tax (General Fund)		Other**	
	100%	P*	100%	P*	100%	P*	100%	P*	100%	P*
(20) Workers Compensation Requirements and Increases (M.S.176.011 to 176.82)					1	2	18	4	5	2
(21) Pension Benefit Increases (M.S.356.18 to 356.60)						2	15	2		2
(22) Minimum Wage (M.S.177.24)						4	19	4		1
(23) Building Permit Surcharge (M.S.16.866)	1				14	4	5	4		
(24) Origin and Cause of Fires Investigated; Report Submitted to State Fire Marshall (M.S.299F.04)							21			
(25) Uniform Municipal Contracting Law (M.S.471.345)				2	1	2	17	3		2

TABLE AII-3

Degree of Appropriateness
Associated with Selected Mandates
(Number of Respondents)

State Mandates 1978 Statutes	Degree of Appropriateness			
	Not <u>1/</u> Appropriate	Appropriate With Full State <u>2/</u> Reimbursement	Appropriate With Local Revenue <u>3/</u> Support	Appropriate With No State <u>4/</u> Support
(1) Minimum Ambulance Standards and Training Requirements (M.S.144.803)		5	6	1
(2) Mandatory Flood Plain Zoning (M.S.104.04)	2	5	9	3
(3) Municipal Shoreland Development Regulations (M.S.105.485, Sub.6)	3	3	6	1
(4) Required Installation of Wheelchair Ramps (M.S.471.464)	1	6	9	5
(5) Handicapped Access to Polling Places (M.S.204A.09, Sub.3)		8	7	7
(6) Handicapped Access to Public Buildings (M.S.16.85)		8	8	5
(7) State Building Code Application (M.S.16.851)		5	15	3
(8) Data Privacy Law: Regulation of Information on Individuals (M.S.15.169)	7	8	3	4
(9) Retention of Public Records and Regulation of Accessibility (M.S.15.17)	7	6	5	4

¹ Respondents were instructed to check this column if they thought the state should not mandate this particular program or activity.

² Respondents were instructed to check this column if they thought the state was justified in legislating this particular mandate only if it provided full reimbursement for its cost.

³ Respondents were instructed to check this column if they thought the state was justified in mandating the particular mandate only if it allows the city to raise taxes to pay for it.

⁴ Respondents were instructed to check this column if they thought the mandate clearly represented appropriate state action and does not require reimbursement or special provisions for increasing local revenue capacity to pay for it.

TABLE AII-3 (Cont'd)

State Mandates 1978 Statutes	Degree of Appropriateness			
	Not <u>1/</u> Appropriate	Appropriate With Full State <u>2/</u> Reimbursement	Appropriate With Local Revenue <u>3/</u> Support	Appropriate With No State <u>4/</u> Support
(10) Minimum Recruitment Standards for Peace Officers (M.S.626.843)	3	7	8	4
(11) Minimum Interest on Utility Deposits (M.S.325.637)	4		2	4
(12) Uniform Utilities Accounting System (M.S.216.B10)	5		4	5
(13) Owner Reimbursement for Appraisal Fee in Eminent Domain (M.S.117.232)	1	4	4	4
(14) Licensing of Handgun Carriers (M.S.624.714)	2	5	8	4
(15) Metropolitan Council Land Planning-Local Government Cooperation (M.S.473.06)	1	7	3	
(16) Mandatory Energy Survey of Government Buildings (M.S.116H.124)	2	18	2	2
(17) Shade Tree Program (M.S.18.023)		14	5	
(18) Financial Reporting (M.S.471.697 and 47.698)	3	7	9	6
(19) Unemployment Compensation: Mandatory Coverage for all Local Governments (M.S.268.06, Sub. 27)	2	3	10	6
(20) Workers Compensation Requirements and Increases (M.S.176.011 to 176.82)	3	3	9	8
(21) Pension Benefit Increases (M.S.356.18 to 356.60)	2	3	8	3

TABLE AII-3 (Cont'd)

State Mandates 1978 Statutes	Degree of Appropriateness			
	Not 1/ Appropriate	Appropriate With Full State 2/ Reimbursement	Appropriate With Local Revenue 3/ Support	Appropriate With No State 4/ Support
(22) Minimum Wage (M.S.177.24)	6	1	8	8
(23) Building Permit Surcharge (M.S.16.866)	4	5	6	5
(24) Origin and Cause of Fires Investigated; Report Submitted to State Fire Marshal (M.S.299F.04)	1	4	12	3
(25) Uniform Municipal Contracting Law (M.S.471.345)	3	3	7	9

APPENDIX III

The California Reimbursement Policy

California's mandate reimbursement law (SB 90) is the most comprehensive of its kind in the nation. The law was enacted in 1972 as part of a property tax relief package which included state-imposed local revenue and tax rate limits. The program's significant features include the following:

- The scope of SB 90 is broad, encompassing local costs resulting from:
a) new state mandated programs, b) increased service levels mandated for existing programs, and c) costs previously incurred at local option that have subsequently been mandated by the state. Administrative or executive orders which lead to mandated local costs are also reimbursable.
- Several types of mandates fall outside the scope of the reimbursement provision. These types of mandates generally fall into three categories: a) mandates issued by other government bodies such as the courts or federal government, b) mandates which do not create additional "net" costs to be funded from the property tax, and c) mandates which are exempt from reimbursement (e.g., those that impose minor net local costs--less than \$200 or less than one-tenth of a mill statewide).
- Disclaimers: Soon after the enactment of California's reimbursement policy, the legislature began to insert "disclaimers" into bills which mandate costs on local government. A disclaimer states that the provisions of law requiring reimbursement are not applicable to the bill for a specified reason. There are two general situations in which disclaimers are used:
 - 1) when the bill affects local government costs for reasons outside the scope of the legislated reimbursement provisions; and
 - 2) when the legislature recognizes reimbursement is applicable, but decides to exempt the bill from the reimbursement requirement. Until 1977, the only option available to local governments to recover costs mandated by legislation, which contained a disclaimer, was to seek new legislation providing an appropriation to pay these costs. The California Legislature amended SB 90 in 1975, 1977 and 1978 to allow local agencies to submit claims to the State Board of Control alleging that: a) a chaptered bill or executive order contained a disclaimer, yet had resulted in "costs mandated by the state", and b) a chaptered bill or executive order had resulted in "costs mandated by the state," but contained neither an appropriation or a disclaimer.

The first step in the reimbursement process is to identify mandates. The legislative council determines whether a bill includes a mandated local program at the point when it is introduced before the legislature. The Department of Finance then prepares a cost estimate for implementing each mandate identified by the council.

Funded Mandates. Unless a disclaimer is attached to the bill, the legislature must appropriate funds to cover the costs of the mandate's first year. The State Controller's Office prepares the reimbursement claim instructions, receives claims for first year costs, and pays them after performing a desk audit. The Department of Finance includes funds for subsequent years' costs in the Governor's Budget, and the Controller receives and pays claims. Table AIII-1 shows the types of mandates funded since fiscal year 1973, and the state expenditures appropriated for those mandates. In 1973, the state provided funding for five mandated local programs totaling an expenditure of \$2.9 million. Of this, the worker's compensation program accounted for over \$2.7 million. By fiscal year 1979, the state reimbursement program was funding 35 mandated local programs, totaling over \$75.8 million (approximately 1% of the total local government aid).*

Unfunded Mandates. In cases where no mandate was identified, or if a disclaimer was made, the Board of Control bases the initial determination as to whether a mandated cost has been incurred on a "lead claim", "test claim", or "claim of first impression" submitted by a local agency. If the board denies this claim, the local agency may appeal to the court for an order directing the board to hold another hearing. This order may be granted only on the grounds that the board's decision was not supported by substantial evidence.

A decision that legislation contains an unfunded mandate does not constitute approval of the claim. The claim can only be approved after the board adopts guidelines which specify the types and amounts of costs eligible for reimbursement. Local agencies may then submit their claims for first-year costs to the board, which forwards them to the State Controller for auditing, prior to approval.

The Board of Control submits a report to the Legislature specifying the amounts and identity of the claimants for all approved claims. This report, submitted twice per year, serves as the basis for the local government claims bill which appropriates funds for payment of these claims. The Legislature may approve or delete items from the bill and, after passage by both houses, the Governor may also delete items from the bill. If no appropriation is made, there is no appeal process for the local agencies.

* This percentage was estimated by comparing mandated expenditures to total revenue received by California local governments from the state in 1978 as reported by the U.S. Department of Commerce, Bureau of the Census. Governmental Finances in 1977-1978.

The Board of Control, as opposed to the Controller's Office, pays all the claims funded through the claims bill. Thereafter, the Department of Finance includes subsequent-year funding for approved claims in the Governor's Budget. The Controller's Office is responsible for making these subsequent-year payments.

Through November, 1979, the Board of Control has approved 25 legislated mandates and five executive orders for local reimbursement (the estimated state expenditures for these mandates is \$8 million). The Board has denied claims for 15 legislated mandates and seven executive orders.

Proposition 4 (November, 1979 Ballot)

In November, 1979, California voters approved Proposition 4 which raises the reimbursement principal established by SB 90 to the level of a constitutional guarantee. The primary effect of this on the SB 90 process is to allow local agencies to seek a court order excusing them from complying with an unfunded mandate or declaring a mandate unconstitutional if they have pursued all available administrative remedies.

TABLE AIII-1

California Expenditures for Legislative Mandates

Chapter/Statutes		Subject	73-74	74-75	75-76	76-77	77-78	est. 78-79	est. 79-80
521	73	Elections	\$43,200	---	---	---	---	---	---
954	73	Radiologic Technicians	9,900	\$143,820	\$178,236	\$ 118,878	\$ 63,917	\$ 169,478	\$ 164,139
1061	73	Short-Doyle Mental Health Plan	---	272,696	131,394	267,604	194,432	182,105	283,660
1175	73	Southern California Transportation Facilities Study	50,000	---	---	---	---	---	---
238	74	Substandard Housing	---	10,454	12,758	10,091	7,278	9,974	25,000
453	74	Sudden Infant Death	---	7,270	5,630	3,965	6,323	5,130	7,544
454	74	Candidate Filing Fees	---	---	29,000	---	93,358	356,810	23,500
1001	74	Ballot Pamphlets	---	536,511	---	---	---	---	---
1322	74	Special Death Benefits	---	---	---	---	14,000	---	14,840
694	75	Developmentally Disabled Persons-- Attorney Fees	---	---	22,000	49,684	46,640	2,371	49,438
704	75	Voter Registration Procedures	---	---	---	---	1,063,953	750,000	800,000
835	75	Cystic Fibrosis Treatment	---	---	5,750	17,798	3,437	-900 ^b	-2,195
941	75	Health Care Services Plan	---	---	---	11,300	3,780	-4,009	780
1216	75	Certified School Employee Dismissal Evaluation	---	---	---	4,223	12,959	3,224	17,041
1253	75	Pupil Disciplinary Procedures	---	---	---	2,000	10,500	-19,500	15,000
348	76	AFDC	---	---	---	8,354,372	22,683,410	15,521,623	5,135,700
854	76	Health Facilities Planning	---	---	---	109,612	136,989	120,960	198,000
952	76	Destruction of Marijuana Records	---	---	---	36,000	225	2,786	72,000
960	76	Economical Litigation Pilot Project	---	---	---	---	---	31,887	61,315
1252	76	Community College Tuition Exemptions	---	---	---	1,081	162	---	---
1287	76	Small Claims Court Project	---	---	---	---	81,000	187,988	---
1330	76	California Local Coastal Program	---	---	---	---	400,000	400,000	400,000
1355	76	Compensation for Justice Court Judges	---	---	---	---	21,340	22,045	55,000

TABLE AIII-1 (Cont'd)

Chapter/Statutes	Subject	73-74	74-75	75-76	76-77	77-78	est. 78-79	est. 79-80
1357 76	Guardianship and Conservatorship Filings	---	---	---	---	2,217,000	1,138,222	1,835,989
498 77	Coroners	---	---	---	---	10,814	31,484	74,000
894 77	Proficiency In Basic Skills	---	---	---	---	---	126,109	270,000
965 77	Suspension of Pupils	---	---	---	---	18,796	61,468	61,690
973 77	School Administrators Transferred to Teaching	---	---	---	---	---	-333	1,500
1048 77	Indigent Defenders	---	---	---	---	1,000,000	424,608	1,000,000
1123 77	Victims of Violent Crimes	---	---	---	---	45,989	10,912	243,099
1155 77	Suisun Marsh Protection Program	---	---	---	---	---	---	9,800
158 78	Court Interpreters	---	---	---	---	---	1,262	102,500
462 78	Dental Records	---	---	---	---	---	26,969	63,000
743 78	Judicial Arbitration	---	---	---	---	---	128,290	2,500,000
1036 78	MDSO Recommitments	---	---	---	---	---	30,000	30,000
1170 78	Increased Retirement Pensions	---	---	---	---	---	2,186,183	5,463,318
various	Superior Court Judgeships	---	960,000	1,980,000	2,940,000	3,840,000	4,350,000	7,140,000
various	Unemployment Benefits	78,000	97,742	233,893	300,000	900,000	1,839,000	600,000
various	Workers' Compensation	2,787,522	9,746,831	16,920,428	18,403,437	20,707,503	19,544,712	22,141,937
various	Juvenile Court Law	---	---	---	---	---	---	27,000,000
TOTALS		2,968,622	11,775,324	19,519,089	30,630,045	53,583,805	47,640,858	75,857,595

- a. Does not include appropriations for claims approved by the Board of Control.
b. Negative amounts reflect adjustments made for overpayments made in prior years.

Source: Special Report, Local Governments' Costs of Compliance with Legislative Acts, 1973-1976. Department of Finance, June 1978.

Governor's Budget, 1978-79.

Governor's Budget, 1979-80.

Governor's Budget, 1980-81.