

# Public Hearing

before

SENATE JUDICIARY COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No. 2 (2R)

(Proposes constitutional amendment to prohibit  
State from requiring county or municipality  
to perform new or expanded program or  
service without full State funding)

LOCATION: City Hall  
Council Chambers  
New Brunswick, New Jersey

DATE: February 23, 1993  
10:30 a.m.

## MEMBERS OF COMMITTEE PRESENT:

Senator William L. Gormley, Chairman  
Senator Randy Corman



## ALSO PRESENT:

John J. Tumulty  
Office of Legislative Services  
Aide, Senate Judiciary Committee

### ***Hearing Recorded and Transcribed by***

The Office of Legislative Services, Public Information Office,  
Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068



[SECOND REPRINT]  
ASSEMBLY CONCURRENT RESOLUTION No. 2

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1992

By Assemblymen FRANKS, Geist, Bagger, Haytaian, Hartmann, Roma, Haines, Singer, Cottrell, Wolfe, DiGaetano, Assemblywoman J. Smith, Assemblymen Lustbader, Kelly, Rocco, Solomon, Moran, Assemblywoman Anderson, Assemblymen Sosa, Mikulak, Oros, LoBiondo, Assemblywoman Derman, Assemblymen Warsh, Azzolina, Assemblywomen Heck, Ogden, Assemblymen DeCroce, Martin, Weber, Corodemus, Assemblywoman Wright, Assemblymen T. Smith, Catania, Gibson, Collins and Assemblywoman Farragher

1 A CONCURRENT RESOLUTION proposing to amend Article IV,  
2 Section IV, paragraph 6 and Article VIII, Section II of the  
3 Constitution of the State of New Jersey.

4  
5 BE IT RESOLVED by the General Assembly of the State of  
6 New Jersey (the Senate concurring):

7 1. The following proposed amendment to the Constitution of  
8 the State of New Jersey is agreed to:

9  
10 PROPOSED AMENDMENT

11  
12 a. Amend Article VIII, Section II of the Constitution by the  
13 addition of the following paragraph:

14 5. <sup>1</sup>[Except] Commencing May 1, 1993 and except<sup>1</sup> as  
15 otherwise provided herein, the State government shall not require  
16 the governing body of a county or municipality to perform any  
17 new or expanded program or service, as may be defined by law,  
18 without full State funding for any net additional costs <sup>1</sup>[resulting  
19 from the required] directly required for the actual<sup>1</sup> performance  
20 of that program or service<sup>1</sup>. Any provision of law, or of a rule,  
21 regulation or order issued pursuant to law, which has the effect  
22 of requiring a new program or service, or an expansion of an  
23 existing program or service beyond that level required by a State  
24 law, rule, regulation or order in effect prior to <sup>2</sup>[the date of  
25 adoption of this paragraph] May 1, 1993<sup>2</sup>, shall be inoperative in  
26 its effect upon a county or municipality until <sup>1</sup>[a State  
27 appropriation is made and] <sup>1</sup>sufficient <sup>1</sup>State<sup>1</sup> funds <sup>1</sup>are<sup>1</sup>  
28 provided to the affected county or municipality as may be  
29 necessary to pay <sup>1</sup>[for any] the<sup>1</sup> net additional costs <sup>1</sup>directly  
30 required for the actual performance<sup>1</sup> of <sup>1</sup>that program or service  
31 in<sup>1</sup> compliance with <sup>1</sup>[the requirement] this paragraph<sup>1</sup>.

32 There may be enacted, in accordance with the provisions of  
33 Article V, Section I, paragraph 14 of this Constitution, a law of  
34 full operation and effect requiring the governing body of a county  
35 or municipality to perform a new or expanded program or service,  
36 but without the provision of State funding otherwise required by

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly APR committee amendments adopted March 30, 1992.

<sup>2</sup> Assembly ALG committee amendments adopted May 14, 1992.

1 this paragraph, if a bill proposing the enactment of that law shall  
2 pass the Legislature by a two-thirds majority of all the members  
3 of each house, and the yeas and nays of the members voting on  
4 final passage shall be entered on the journal.

5 b. Amend Article IV, Section IV, paragraph 6 to read as follows:

6 6. All bills and joint resolutions shall be read three times in  
7 each house before final passage. No bill or joint resolution shall  
8 be read a third time in either house until after the intervention of  
9 one full calendar day following the day of the second reading; but  
10 if either house shall resolve by vote of three-fourths of all its  
11 members, signified by yeas and nays entered on the journal, that  
12 a bill or joint resolution is an emergency measure, it may proceed  
13 forthwith from second to third reading. No bill or joint resolution  
14 shall pass unless there shall be a majority of all the members of  
15 each body personally present and agreeing thereto, except that a  
16 bill requiring a county or municipality to perform a new or  
17 expanded program or service, as may be defined by law, but  
18 without the provision of full State funding otherwise required by  
19 Article VIII, Section II, paragraph 5 of this Constitution, shall not  
20 pass unless there shall be a two-thirds majority of all the  
21 members of each body personally present and agreeing thereto,  
22 and the yeas and nays of the members voting on such final  
23 passage shall be entered on the journal.

24 (cf: Article IV, Section IV, paragraph 6 effective January 1, 1948)

25 2. When this proposed amendment to the Constitution is finally  
26 agreed to, pursuant to Article IX, paragraph 1 of the  
27 Constitution, it shall be submitted to the people at the next  
28 general election occurring more than three months after that  
29 final agreement and shall be published at least once in at least  
30 one newspaper of each county designated by the President of the  
31 Senate and the Speaker of the General Assembly and the  
32 Secretary of State, not less than three months prior to that  
33 general election.

34 3. This proposed amendment to the Constitution shall be  
35 submitted to the people at that election in the following manner  
36 and form:

37 There shall be printed on each official ballot to be used at that  
38 general election, the following:

39 a. In every municipality in which voting machines are not used,  
40 a legend which shall immediately precede the question, as follows:

41 If you favor the proposition printed below make a cross (x), plus  
42 (+) or check (✓) in the square opposite the word "Yes." If you are  
43 opposed thereto make a cross (x), plus (+) or check (✓) in the  
44 square opposite the word "No."

45 b. In every municipality the following question:

PROHIBITION ON STATE REQUIREMENTS  
THAT COUNTIES OR MUNICIPALITIES  
PERFORM NEW OR EXPANDED PROGRAMS  
OR SERVICES WITHOUT FULL STATE FUNDING

YES. Do you approve the amendment to the Constitution prohibiting the State government <sup>1</sup>, on and after May 1, 1993,<sup>1</sup> from requiring by law, rule, regulation or order that a county or municipality perform any new or expanded program or service, as may be defined by law, unless <sup>2</sup>[a State appropriation is made and]<sup>2</sup> sufficient <sup>2</sup>State<sup>2</sup> funds <sup>2</sup>are<sup>2</sup> provided to the county or municipality as may be necessary to pay for any net additional costs <sup>2</sup>[of compliance with the requirement] directly required for the actual performance of the program or service<sup>2</sup>, except in cases where a law imposing such requirement without providing for full State funding is enacted after passage by a two-thirds majority of all the members of each house of the Legislature, and further prohibiting the Legislature from passing a bill proposing such a law without providing for full State funding, except by a two-thirds majority vote of all the members of each house of the Legislature?

INTERPRETIVE STATEMENT

NO. If this proposed amendment to the Constitution is approved, the State government would be prohibited <sup>1</sup>, <sup>2</sup>[effective] on and after<sup>2</sup> May 1, 1993,<sup>1</sup> from requiring, through a State law, rule, regulation or order, that a county or municipality perform any new or expanded program or service unless the State provides the funds necessary to enable the county or municipality to comply with the requirement. An exception is authorized only when a State law requiring a new or expanded local program or service but without full State funding is enacted after passage by a two-thirds majority of the members of both houses of the Legislature. The amendment also prohibits the Legislature from passing a bill proposing such a law without full State funding, except by a two-thirds majority vote of the members of both houses of the Legislature.

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Proposes constitutional amendment to prohibit State from requiring county or municipality to perform new or expanded program or service without full State funding.





WILLIAM L. GORMLEY

Chairman

JAMES S. CAFIERO

Vice-Chairman

JOHN O. BENNETT

LEANNA BROWN

JOHN E. DIMON

LOUIS F. KOSCO

BRADFORD S. SMITH

JOHN A. GIRGENTI

EDWARD T. O'CONNOR, JR.

RAYMOND J. ZANE

## New Jersey State Legislature

### SENATE JUDICIARY COMMITTEE

LEGISLATIVE OFFICE BUILDING, CN-068

TRENTON, NEW JERSEY 08625-0068

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## NOTICE OF PUBLIC HEARING

The Senate Judiciary Committee will hold a public hearing on the following legislation:

**ACR-2 (2R)**  
**Franks**

Proposes constitutional amendment to prohibit State from requiring county or municipality to perform new or expanded program or service without full State funding.

The hearing will be held on **Tuesday, February 23, 1993 at 10:30 A.M.** in **Council Chambers, City Hall, 78 Bayard Street, New Brunswick, New Jersey.**

*The public may address comments and questions to John J. Tumulty, Judiciary Section, Office of Legislative Services, (609) 292-5526. Those persons presenting written testimony should provide 15 copies to the committee on the day of the hearing.*

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SENATOR WILLIAM L. GORMLEY (Chairman): Senator Lynch, if you will?

SENATOR JOHN A. LYNCH: Did you get a visa to join us here today?

SENATOR GORMLEY: Well, what I did, I rode up Livingston Avenue, the street where we had the famous jog seven years ago for child abuse?

SENATOR LYNCH: That's right. I remember that. You haven't been back since?

SENATOR GORMLEY: No, I've run in subsequent runs. You've skipped them. You were down in Florida during those runs.

You walked into that. Something tells me I'm going to take a hit now, during the testimony.

SENATOR LYNCH: It's always during a bankers convention.

Let me first welcome you to New Brunswick. While I have some prepared remarks that I will get into in a little bit, I wanted to talk just briefly about what State Mandate/State Pay backs up against here in New Jersey. You, Senator Gormley, particularly, have had an interest in the plight of our property taxpayers.

All of the current data shows, nationwide, that New Jersey is so far above any other state in terms of the level of taxation on the property tax side that it almost defies imagination. There is only one state that has a higher property tax, and that's New Hampshire, and the reason is; they don't have any other taxation other than a relatively minor tax on interest earnings. They have no sales tax. They have no income tax. Yet, New Jersey's property tax is a very minor fraction below that of New Hampshire that has no other taxes.

In comparison to other states, other than New Hampshire, even those that rely to a significant degree upon property taxes, we are still off the charts. You know that, and know that very, very well.

We have done some things that are meaningful in addressing the double-digit growth in the property taxes that we experienced in the 1980s, but clearly, we need to do more structurally, systemically, and the like. And while I criticize, to some extent, the initiative that you put forward that the voters approved this past November for the takeover of the court costs by the State, given the times that we are in in terms of the ability to fund such programs economically and otherwise, I think that it was the right thing to do.

So even though we don't have a funding source, maybe in your campaign for Governor in 1997 you will be able to identify one. It's the right thing to do for the long haul. Now we have an obligation to buy in, and take that burden off of the backs of the property taxpayers. It's a good, good step, and I have to applaud you for it.

I have worked with this issue of State Mandate/State Pay for a long, long time. Indeed, I've had bills in for constitutional amendments and the like. We've done a lot of research; we've studied it in other jurisdictions. There are twenty-some states that have some form of State Mandate/State Pay, roughly half of which are popular constitutional form, the others are legislative. None of them are really followed and they are circumvented. There are some reasons for that.

I think that you're on the right track here, but it may very well be that you need to make some modifications as to how this is approached in order to make it meaningful. One of those I think you ought to consider is institutionalizing some form of a commission that would not be unlike the Pension and Health Benefit Review Commission -- which has finally been initiated -- because the issue of State Mandate/State Pay is so very, very complex.

Each and every day today, we see in the "Register" regulations being promulgated that are really State Mandate/State Pay. And if you talk to the mayors around,

generally speaking, today, they haven't found fault with the Legislature in recent years on any significant issues, because we haven't really posted a whole lot of State Mandate/State Pay. But they are finding fault on the regulatory side, where they are assuming-- More and more obligations are being put on their back on a day-to-day basis, without a whole lot of opportunity for input. And since there are 567 municipalities, each of which may be affected in different ways by different regulations, it's very difficult for the League or any other entity, to get their arms around the regulatory process.

It seems to me that whether it's the legislative initiatives or from the executive branch -- the regulatory initiatives -- that there ought to be some filtering mechanism to identify what those regulations or laws do in terms of State mandate -- what their impact are, what the alternatives are. And then, maybe, there is a procedure that can be developed that would require, if they are to be implemented, a vote of the Legislature by two-thirds, or whatever you have here. Because clearly, there are inherent in the initiative that we have before us, major, major problems that would render this initiative only a constitutional amendment to point to, and not to have a whole lot of substance.

I would analogize this to the initiative that was passed regarding victims' rights. The victims' rights amendment is very, very broad, and very, very general, and we already had very specific legislation. The sponsors of the legislation -- or of the constitutional amendment -- said, "Well, it won't be given due deference, even though it's in the law today and very specific, unless you have the force of a constitutional amendment to stand behind it."

So I think if you had two things going, a constitutional amendment which contains some institutionalized commission or process that ensured the filtering of all regulations and laws relating to State Mandate/State Pay, that

we could see some real protection for our property taxpayers and a focus on the property taxpayers. Because as all of you know, in Trenton, the Division of Taxation which is responsible in a technical sense for property taxation -- overseeing it -- doesn't really give a hoot and holler because the State doesn't get any of the money. So it becomes a fourth cousin to the Division of Taxation in terms of their oversight, which leads to a whole lot of other problems that aren't necessarily germane to today's subject.

Let me just go through, very briefly, the text of the remarks today. These are offered as constructive criticism in the context of my other remarks. I don't want you to take this as if I'm opposed to the concept. I just think to make it workable, you have to institutionalize some process that doesn't simply have this as something we said to get this monkey off of our backs, without providing a protection for the property taxpayers for the long term.

As I indicate in my remarks, I first sponsored a constitutional amendment back with Assemblyman Franks in 1986. But your presence here today, seven years after the initial introduction of this legislative proposal, speaks volumes about this and the other quick fix ideas that come before the Legislature. They have instant appeal, as well as complex implications and unexpected consequences.

As the Legislature has debated this proposal over the past seven years -- and indeed, we have all had forums where we have kicked this around many, many times -- its ramifications have become more clearly understood. I would like to review a few of those ramifications today, because I think they impact upon what you ultimately want to institutionalize.

There are several provisions which compromise the primary goal of providing real relief from State mandates to counties and municipalities. First, this measure provides no direct property tax relief. It requires no additional net



appropriations of State dollars to local governments and demands no decrease in property tax rates in return for additional State funding. At most, it is a property tax stabilization proposal. Absent continued reform of New Jersey's funding of State aid, State Mandate/State Pay is an empty promise and a hollow public policy.

The amendment goes on to permit the Legislature to enact a State mandate without providing any appropriation by a two-thirds vote of both Houses. Since most bills pass both Houses by this margin anyway, it is doubtful that over the long run, the constitutional amendment would stem the flow of unfunded State mandates.

As if this two-thirds loophole were not enough, the amendment also permits the Legislature, by simple enactment, to specify that a State mandate is not a new or expanded program or service. Given these loopholes, it is clear that while an effective State Mandate/State Pay policy is desirable, it does not exist within the context of this proposal.

A further consideration for local officials inclined to support this proposal is the question of increased and explicit State control over local governments. In the interest of seeing to it that its mandates are properly executed, especially in light of its required appropriations, the Legislature will tend to enact standards and requirements for administration, staffing, and salaries for new or expanded programs. In the guise of providing fiscal relief to local governments, local officials will be facing the consequent addition of tighter State controls.

I think one of the fundamental flaws of the constitutional amendment is its failure to guarantee a minimum level of State support to local governments. Since no existing State aid formula -- and I think this is very, very significant -- since no existing State aid formula enjoys constitutional

protection, there is nothing in this measure which would prevent the State from lowering existing State aid payments in order to compensate for the costs of new mandates.

SENATOR GORMLEY: Read in, "gross receipts"?

SENATOR LYNCH: Exactly, exactly, or the new formula money, or any of the programs that were passed in the '80s, and in 1990 or '91.

To compound this problem even more, State mandate payments would be program specific and categorical. Ninety percent of the existing State aid dollars are noncategorical, and would, therefore, be threatened by the encroachment of the mandated programs. Funding under this proposal would go to local governments regardless of need or distress, and some essential urban aid programs would no doubt suffer.

Since this amendment would deal only with prospective, not current mandates, the need for its adoption by the Legislature has been overstated. The imposition of future mandates can be unilaterally precluded by either the Assembly Speaker or the Senate President through their exclusive power to control the calendar in the Assembly and the Senate, with the exception, as I indicated before, which is a very significant one, of what is going on on the regulatory side. That I have to point to, and I think that needs to be addressed in a very, very significant way.

The resolution that we have before us does not address mandates that are imposed as a result of the judicial or executive branch -- as I indicate here. Examples of these would include the Mt. Laurel, administrative orders from the AG's office and the like on drug free school zones. Those kinds of things.

Finally, you should be aware that in 1988, the Kean administration, through the Department of Treasury, submitted testimony to both the Assembly State Government Committee and the Senate Revenue, Finance, and Appropriations Committee

stating that the problems created by this amendment will make it more difficult for the State to maintain its AAA credit rating. Such a change in our credit position could not possibly benefit either local governments' or the State's taxpayers. I'm not sure how significant an issue, however, this really is. I think it's more significant that we protect the property taxpayers with a legitimate structure, using a State Mandate/State Pay concept.

Our real solution, I think, is to ensure that State aid provided to local governments is sufficient to alleviate financial hardships to homeowners and taxpayers, and to provide, I think, this filtering mechanism for all regulations and bills prior to their being adopted.

We all agree, I believe, that we need to ensure that a portion of future State revenue increases, particularly those that flow from the income tax, which is designed by the Constitution for property tax relief; that these flows are apportioned to local government to meet the increased costs of providing services at the local level without increasing property taxes. The dedication of a fixed percentage of the State's revenue growth to local property tax relief, rather than the growth of State government as happened in the '80s, is a far less complicated method of achieving guaranteed property tax relief across the board.

If we are to enact an effective State mandate proposal, we must do so in the context of reforming the State and local revenue and spending structure in New Jersey. Property tax stabilization, even if it could be achieved through this proposal, is far less desirable than property tax relief. And if State Mandate/State Pay is to constitute the fundamental change it is purported to embody, it must be a program immune to legislative tampering and judicial interpretation. The pending proposal doesn't make it on either count.

In closing, I'm here to offer constructive criticism. I believe very strongly about the property tax relief initiatives that we have moved forward in recent years. A whole lot more has to be done. Clearly, no one in Trenton, on a day-to-day basis, pays a whole lot of attention to what we do and its effect upon property taxpayers, and that's how we got to where we were in 1989, '90, and '91 when the lid was blowing off the roof on property taxation in New Jersey. That's how we got to be number one on the charts. That's how we rival New Hampshire that has no other broad-based taxes.

You have an opportunity -- we have an opportunity -- I think, to do something to ensure that Trenton is sensitive to the property tax issues all of the time -- not just when it becomes a political opportunity for us, but all of the time -- to ensure that we don't have the hemorrhaging we saw during the course of the 1980s, and that we wind up taking the right position in New Jersey as we move down the road, and that is; winding up in the middle of the states. Let's wind up number 25 of the states on our property tax initiatives and the amount of money that we raise per capita from the property tax in New Jersey.

I thank you for the opportunity.

SENATOR GORMLEY: Randy, do you have any questions?

SENATOR CORMAN: Yes, Senator Gormley, if I may.

Senator Lynch, I want you to know I do accept your comments as being constructive, and as a former municipal official in this county, I recognize that you're probably one of the foremost experts on local government in the Legislature. Your work in this area is, indeed, something to be respected.

As a matter of fact, I know that you have gone to great efforts to try to help municipalities and counties fund State mandates. I remember back in -- I think it was around 1988, when municipalities were screaming about costs being

imposed on them in the form of additional solid waste costs, that you had a bill that was intended to relieve them, and Governor Kean vetoed it. And if I'm not mistaken, the Senate Republicans assisted you in overriding the veto in the Senate.

So I can appreciate the work that you have done. In fact, when I was a Councilman in Sayreville, we were looking forward to getting that money. We urged the Assembly to override.

Just a couple of thoughts that I have on this: One thing, that if I were to have any criticism of this measure, and I share your concerns on the regulatory side of it, but I think one omission in this bill is the fact that it does not address State mandates on local school boards. You know as well if not better than I, that's 70 percent of the local property tax dollar.

I think one of the classic examples of an unfunded mandate was, earlier, the State Board of Education required all school boards to provide calculators to students taking State administered tests. I guess educators can agree or disagree as to whether or not that's a good policy, but if the State Board of Education thought that was a good idea, I think they should have come up with the money to fund it, and I think every school board would agree with that.

Do you think that we ought to try to bring school systems and boards of education into any kind of a State Mandate/State Pay structure?

SENATOR LYNCH: Absolutely. I don't think there's any doubt about it, you're absolutely correct. We're now spending \$11 billion statewide on primary and secondary public education. It almost mirrors what's happened with health care in New Jersey. Those are the two primary spending programs that underlie, structurally, what's happening with government at all levels in New Jersey. In order to help assist with the cap programs and other programs that are going on --

enhancements for consolidation of school districts and programs and the like -- that clearly would be desirable, particularly if you had, I believe, a commission that was charged with the responsibility of filtering everything, so that every bill or every regulation as it affected local school districts, municipalities, and counties, would wind up having to have the input of that commission. It would be made up, I would assume, of members of local government, the League of Municipalities, ex officios, and the like.

While the last thing in the world that I want to do is to see another commission created that has no meaning, if it's done in a manner of the Pension and Health Benefit Review Commission, it would be very, very important to Trenton, and its view of the world.

SENATOR CORMAN: And if it's something that ultimately holds down the property tax increases, it sounds like something worthwhile.

SENATOR LYNCH: Exactly, that and make sure that we continue with legitimate caps on school spending, subject to voter approvals of raising those caps.

SENATOR GORMLEY: Senator, would you say that one of the problems with the measure-- No one questions the sincerity of the measure or the desire to lower property taxes, but doesn't it come down to the reality of the last week in June, when we have the choice of either saying it's an income tax or a sales tax, or we can let the local official take the hit. We pass the budget document saying that these aren't State mandates.

As this is drafted now, we still have that ability to add one sentence in the budget bill, and the constitutional amendment doesn't have any effect.

SENATOR LYNCH: Absolutely.

SENATOR GORMLEY: Because as you stated, there's not a sentence-- I mean, we talked earlier about the court costs

takeover. To a degree, could you call it a gimmick? Of course you could, but to put a deadline and a limitation in to get something done.

What you're saying, no matter what the vehicle might be, if it's going to have reality to it, there has to be a sentence in there that has a form of limitation, whether it be prospective in a few years or whatever, so people can plan. Whatever it might be, you'd have to have a sentence of that nature in there, or as we get to the last week in June, I think that would be a common phenomena, even if the amendment were to pass.

SENATOR LYNCH: Absolutely. But if you had a legitimate program in place with advocates and a focus, it would be difficult to pass legislation or regulations that would sneak by you and the local officials, whether it's school districts or municipalities or counties, without having a focus put on that. That's what I think is important here.

We have a structure now that is beginning to work. We have legitimate caps on county and municipal government spending, and school district spending. We have an income tax that backs up against those caps, and it's provided a significantly increased level of funding, so that in reality, for every dollar you increase on the income tax side, you lower a dollar on the property tax side. That's the way this system is structured today.

If we keep that in place with those legitimate caps, and at the same time have a real State Mandate/State Pay, with somebody that is responsible to oversee this on a day-to-day basis, that's user friendly -- by "user" here, I mean, property taxpayer friendly, as opposed to a bureaucracy and a Division-- And this is no criticism of the Division of Taxation, you know. Why would they care about property taxes?

SENATOR GORMLEY: It's not their job.

SENATOR LYNCH: Why would they care about property taxes? It doesn't have anything to do with funding anything in State government.

SENATOR GORMLEY: So, are you saying that we should consider a form of a commission in the amendment?

SENATOR LYNCH: Yes, I think it would be healthy if you could institutionalize a commission that would be responsible -- if this is going to go on -- that would be responsible to provide that filter, that check, that balance, that constant review of what is being done, and that would be their focus.

Then you would have -- we the legislators would, in effect -- have some protection against the onslaught if this commission is saying, "Hey, wait a minute. You shouldn't do this. There may be some people out there for good and valid reasons who are saying it has to be done, and politically it's difficult for you not to go along with them. But you shouldn't do this because here is what it's going to do to your property taxpayers." That gives us, in effect, a safe harbor, not unlike the Pension and Health Benefit Review Commission concept.

SENATOR GORMLEY: Just out of curiosity, how would the commission be set up in terms of appointments and appointing authority? How would that be divided up between the Governor and the Legislature?

SENATOR LYNCH: It clearly would be for the sponsors, but we would certainly be happy to work with you on that. We would want to have it property taxpayer friendly, but at the same time, you would have to have some legitimate people on it from State government as well. You would have a real balance, which is what we tried to achieve with the Pension and Health Benefit Review Commission. I think we have. I think the appointments there have been very, very good.

SENATOR GORMLEY: Any other questions? (no response)  
Thank you very much.

SENATOR LYNCH: I appreciate it.



SENATOR GORMLEY: Bill Dressel, New Jersey League of Municipalities?

W I L L I A M G. D R E S S E L, JR: Thank you, Mr. Chairman. I would like our League President to join me, with your permission?

SENATOR GORMLEY: Sure.

MR. DRESSEL: Mr. Chairman, I have a brief, prepared statement I would like to read into the record. Then our League President, Phyllis Marchand, has a prepared statement, and then we would like to take questions following those presentations.

SENATOR GORMLEY: Sure.

MR. DRESSEL: Mr. Chairman, it's a pleasure to be here. My name is William Dressel, and I'm the Assistant Executive Director of the State League of Municipalities. It is a pleasure and a privilege to be here today to support Assembly Concurrent Resolution No. 2, which would require the State to provide funding for most new mandates.

As all of you know by now, the League of Municipalities has been lobbying for State pay for State mandates for well over 40 years. As a matter of fact, we've been lobbying for State pay for State mandates for so long that we have incorporated this proposal into our legislative policy statement.

During that time, many things have changed here in our Garden State. But this one change has been resisted as have few others. I'm glad that you, Mr. Chairman, have allowed this issue to see the light of day. By so doing, you again prove your willingness to listen to our arguments, as well as those of our adversaries.

Suffice it to say that unfunded mandates have plagued local government for too long. In his 1987 article, "The State Mandate Problem," Professor Joseph F. Zimmermann observed that, "A single State mandate may not add significantly to municipal

expenditures, but a series of mandates may have a burdensome, cumulative effect. It is clear that State mandates imposing major costs on local governments reduce the governments' discretionary authority, and may make municipalities less responsive to the needs of citizens. Fully State-funded or reimbursable State mandates obviously would not have this effect on local governments."

State pay for State mandates is an honest and responsible initiative, which is long overdue. Why do I say it is long overdue? Back in the '70s, Proposition Thirteen in California and Proposition Two-And-a-Half in Massachusetts were big news. Everyone knows that each of these initiatives led to limitations on local property taxes. But what is often ignored is that, when the voters in those states decided that the time had come to cap property taxes, they also realized that the cap would be unworkable if the state Legislatures were allowed to continue to shift costs to local governments. They, therefore, also provided for state pay for state mandates.

When our new Legislature imposed the cap on us, they neglected to include a State pay for State mandate provision. Now is the time to correct that oversight. Local officials should never again be forced to choose between increased taxes or cuts in other services in order to find the resources to pay for State mandates.

Mr. Chairman, at this time I would like to introduce to you one of our over 4200 elected municipal officials in our State. In our audience I've noticed several other officials here today. But she is one of the thousands who are forced to deal with State mandates each and every year. She is our President of the State League of Municipalities, Phyllis Marchand.

**DEPUTY MAYOR PHYLLIS MARCHAND:**

Thank you, Bill.

Good morning, Mr. Chairman and members of the Committee. I'm Phyllis Marchand, and presently I am the Deputy Mayor of Princeton Township. It's my honor to serve the people in Princeton Township as their elected official, and it's also my honor to serve the municipalities of New Jersey as President of the League. I want to thank you for holding this hearing and for giving me the opportunity to express my support for ACR-2, which would require State funding of State mandates.

Before I start, I don't know if any of you have had time to see this morning's newspaper. In this morning's Trenton paper, there is an editorial, "Put on the Brakes," which is advocating State Mandate/State Pay. I happen to have had a lot of historical stuff on this mandate, and on February 21, 1988, almost five years ago to the day, there was another editorial in the paper that is pretty much the same verbiage. So I would hope that you might see that after five years, maybe this is the time to take some action on this.

A great American once said, "You can fool some of the people all of the time, and all of the people some of the time. But you can't fool all of the people all of the time." As a municipal official, I can only conclude that President Lincoln probably never saw New Jersey State government in action.

I am not blaming or accusing any individuals of doing anything wrong. I am only saying that there is, obviously, something wrong with a system which allows the State, in former Speaker Hardwick's words, "to spend money indirectly by mandating that local governments institute programs that mean higher property taxes." There is something wrong with a system which allows officials at one level of government to assume the posture of great benefactors, while requiring officials at another level of government to produce the additional funding. There really is something wrong with a system that separates

responsibility from accountability, by permitting some to take credit for solving a problem, while forcing others to bear the blame for necessary tax increases or service cuts.

I believe that the separation of responsibility from accountability is a major problem. I believe that it contributes to the alienation of the electorate from the political process.

Under current practice, the Legislature can pass, and the Governor can sign, bills that mandate the expenditure of public funds. They can do that, and yet not appropriate those funds. Instead, they can just send the mandate and the accompanying fiscal requirements to our State's 567 municipalities and 21 counties. All too often the legislation gives regulatory power to one of the executive branch departments, and bureaucrats who nobody ever voted for, tell locally elected officials and governing bodies how they will comply with the mandate. And they tell us when we will comply with the mandate, and they tell us where we will comply with the mandate, but they don't concern themselves with how, when, and where we are going to find the money to comply with those mandates.

I know that some will say, "What difference does it make which level of government pays for State mandates? Isn't it the taxpayer who is ultimately forced to pick up the bill?"

That's true. It is the taxpayer who will pay if a mandate is enacted. Still, I believe that this initiative, which would focus fiscal responsibility and political accountability where it properly belongs, will make a difference. It will make a difference because it will force the Legislature and the Governor to consider, for the first time, the costs as well as the benefits of every proposed mandate.

The mayors are often criticized when they come to the Legislature in search of State aid. Yet, it is often the case that the price and the profusion of State mandates forces us to

make that quest. A local official is always blamed for property tax increases. Yet, it is often the fact that the price and the profusion of State mandates, coupled with the stunted growth of property tax relief reforms, leaves him or her with no other alternative.

I know that this proposal raises questions for some. It takes a certain broadness of mind and boldness of spirit to embrace any change. And even though this change is obviously fair and responsive, it is still a significant change in the way various levels of government relate to each other, and those who are used to exerting coercive power may resist a change which will require them to communicate and cooperate.

With that in mind, I also want to indicate the League's conceptual support for a bill which would provide fuller definitions and more specific operational guidelines than can appropriately be incorporated into a constitutional amendment.

We have supported such legislation in the past. During the 204th Legislature in 1990 and 1991, Assemblyman Franks had a bill which would answer many of the definitional and procedural questions that have been raised. I have appended a copy of that bill, A-2328 of the 1990-1991 Legislature, to my testimony.

We stand ready, willing, and able to work with any interested legislators on legislation designed to implement our State pay for State mandates constitutional amendment.

Mr. Chairman, we also realize that your inability to act on ACR-2 in time to get it on last year's ballot has created a technical difficulty; specifically, the version of ACR-2 which you have before you carries an effective date of May 1, 1993. Since we know that the earliest that this proposal can be put before the voters is November 2, 1993, ACR-2 obviously needs to be amended. We understand that this House cannot amend a Concurrent Resolution that originated in

another House. We also understand that there are at least two ways that we can solve this problem. Either a new proposal can be introduced, or the Assembly can recall ACR-2 for purposes of making the technical adjustment and amendment.

Therefore, again, we stand ready, willing, and able to work with any legislator who believes as we do, that this issue deserves more than lip service.

Again, I remind you of today's paper and of the paper of five years ago, almost to the day, advocating this. As a municipal official -- and many of you have been there before, as has Senator Lynch -- I hope that you will help us and help the taxpayers by approving this.

Thank you.

SENATOR GORMLEY: Any questions, Randy?

SENATOR CORMAN: I just have one. I know the question of municipal debt is something that is coming up. I know the last Legislature enacted legislation to put municipalities on a fiscal year that coincided with the State's fiscal year. The concept had some merit to it. The problem was that, in order to make that shift, they had to issue a half-year's worth of fiscal year adjustment bonds. Whether or not it's advantageous for a municipality to do that on their own is, I guess, a question best left to the municipal officials. But that legislation, essentially, mandated many of our larger municipalities to adopt that.

Is it the League's position that that was an inappropriate mandate, to force municipalities to issue \$600 million in forced debt?

MR. DRESSEL: As you correctly noted, Senator, the bill for most of the municipalities was permissive. For the 35 or so municipalities where it was required, it's my understanding that it came out of discussions with the Urban Mayors' Association of New Jersey. Most, if not all of them, did agree that because of the budget mismatch, if you will --

the State budget mismatch and the fiscal year beginning on July 1 and the calendar year, which they have to comply with -- that it would be more advantageous for them to go to the fiscal year. So that was an option they chose to adopt, and they felt that it was appropriate.

Again, it was basically permissive. If the mayor and governing body decide that this is the best course of action to take, well, that is a decision that they themselves made. That's the political heat that they're going to have to take for the decision.

SENATOR CORMAN: But there were some municipalities that were mandated. Were there any of those municipalities that declined to do it?

MR. DRESSEL: There were some municipalities who declined to do it. There were some municipalities who opposed it so much, as I understand and recall, that they appealed it, and some of them were allowed to back out of that -- not all. I do recall there were two, and there may have been one municipality in your district, as I recall, but I'm not sure.

SENATOR CORMAN: There's one in my district that actually went forward with it. They were mandated to do so.

MR. DRESSEL: I think they appealed it, but--

SENATOR CORMAN: No, you're thinking of Old Bridge.

MR. DRESSEL: --then they were required to do it.

SENATOR CORMAN: That's in Joe Kyrillos' district.

MR. DRESSEL: Yes, I think that was the community.

SENATOR CORMAN: But you don't believe that it's appropriate or necessary that the legislation actually mandated-- If they wanted to do that--

MR. DRESSEL: I think it should have been optional, quite frankly. In the main, I know when it was initially conceived that it was permissive, and I recall Mayor Rutkowski from Bayonne, who is here, I think he might want to address it. But I do recall at the Urban Mayors' Association, they

almost unanimously agreed to it. And most of the municipalities were very -- or urban municipalities, the top 35 of population--

SENATOR CORMAN: Right. They all wanted to do it on their own. There was no need to make it a mandate.

MR. DRESSEL: In order to change the fiscal year, in order to change the years that -- or the payment schedule for State funds, it did require a change in legislation.

SENATOR GORMLEY: You're saying that the Assembly bill, the Franks/Stuhltrager bill, is the implementing legislation that you would like to see as the implementing legislation?

DEPUTY MAYOR MARCHAND: I think that would be agreeable.

SENATOR GORMLEY: That's a question that comes up, because people do like to see the form of the implementing legislation before they support the measure.

Also, in terms of the Lincoln quote about fooling people, it's much better not to fool people and do what was done with a nonbinding set of-- Do you remember that thing Assemblyman Hardwick had four or five years ago, when he ran for Governor, State Mandate/State Pay? It was meaningless.

It's also much more important that if you tell people State Mandate/State Pay, I believe that it be meaningful, or not just use it as a political slogan. That would coincide with Lincoln's comment.

DEPUTY MAYOR MARCHAND: Yes, and I agree with you. Of course, ideally, I think that the mandates that are already there, of course, are in place, and we're not asking to have those that are there-- But it would be starting with any new mandates.

SENATOR GORMLEY: Sure. Let's go over a couple of regulations, or whatever. Let's suppose there was an environmental regulation; this is one that's come up in terms



of requiring towns to have a certain-- Let's assume it's tanks, which comes up with municipalities, whatever. Are we saying that that would be an area where other towns or other residents in the State would have to pay to clean up? Let's say a cleanup -- suppose a regulatory cleanup at a particular town, because officials from another generation didn't handle it the right way. Should that be passed on to the General Fund, or shouldn't that particular town just be required to pay for that?

These are some of the questions I've gotten from people.

MR. DRESSEL: Sure.

SENATOR GORMLEY: In other words, in terms of, "Here's a State environmental regulation." Everybody agrees, you know, if we talk about groundwater, that supersedes State mandates. It supersedes everything that we talk about. Let us assume there's a State regulation in terms of cleanup. All the neighboring municipalities have done their job. There is no need for a cleanup, but that could be construed as a mandate.

How would we handle that? Do you think the two-thirds rule handles that?

MR. DRESSEL: Senator, absolutely. I think the safety valve is the two-thirds rule. The Senator is alluding to the fact that you have to have a two-thirds vote of the Legislature in order to pass that cost back to the local government, in order to have the mandate be imposed at the local level.

But what we gained through that process is that we've elevated the discussion on it, and that there is a greater sensitivity of the costs that will go back. Hopefully, through that discussion, through the attention that the public interest groups like the League and others would bring to it -- the news media -- that we would take consideration of phase ins, as one of the concerns you had with Senator Lynch's comments about phase in implementation. Maybe that would be a greater credence given to more appropriate phase ins in implementation.

But I think we could come up with many, many examples of mandates, and we could pull our hair out in forums like this; should the State pay for it, should the locals pay for it?

SENATOR GORMLEY: You have to understand something. If you pass a constitutional amendment, and you tell everybody you're doing something, then the local official rightfully says, "I have a--" Because everybody thinks of their own horror story. People have-- "Oh, if my horror story wasn't included" -- State Mandate/State Pay -- "that's why I supported it."

That's what happens with I&R debates, okay? Everybody is thinking that they're voting for their own version of I&R, and then when they find out-- I've had Legislative Services look at it, and it's approximately-- I believe in Professor Zimmermann's book, that I believe you quoted, there are approximately 12 areas of mandates that he cites. If you look at this legislation, only 1 of the 12 is included.

So therefore, somebody would say, "Oh, I voted for this. I'm sure that's what I was for." I think what we all want to have, depending on what comes out or what's discussed, is that people are all on the same page, because the worst thing you'd ever want to do is if something were to move and to pass where the public official thought it applied to their horror story or their problem, and they found out, "Wait a second. There's an exception to that?"

What I've found in the review that's been done is that, if you pass it, quite frankly, it's not as binding as certain people might perceive. I think you're very familiar with the bill, and you know what I'm talking about.

DEPUTY MAYOR MARCHAND: I'm only saying that it can't be worse than it is with nothing.

SENATOR GORMLEY: No? Can I tell you something? Oh, you're wrong about that.

DEPUTY MAYOR MARCHAND: You don't think so?

SENATOR GORMLEY: Oh, no. Let me tell you something. The worse thing you can do is to let people think you're being bold -- this is what Lincoln said after that one quote -- let people think you're being bold, and you're not. That's a far worse thing that you could do to the public.

DEPUTY MAYOR MARCHAND: No, I'm only looking at it from the municipal expense right now--

SENATOR GORMLEY: What I'm saying to you is--

DEPUTY MAYOR MARCHAND: --in a fair way.

SENATOR GORMLEY: No, what I'm saying is that it's a problem that's been reiterated by Senator Corman and Senator Lynch in that, if it passes -- and people think it's going to happen -- a year later they're going to go, "Oh, no, that doesn't apply." I think people all are in agreement on-- People want to see a format that limits property tax increases, no question. And people don't want to see people--

I mean, you know, let's have an enormous amount of compassion for the local official, but let's have even greater compassion for the school board official, because after we pass it on to you, it gets passed on to the local school board, and they're not even salaried at all. They take the worst hit of all, all the time.

It is a game of life, unfortunately, where these things are passed on. I'm just talking about meaningful-- I mean, people should have a meaningful choice instead of thinking they're doing something that isn't binding. That was brought up by Senator Lynch, who has been a supporter of a measure like this. That's been brought up by Senator Corman.

But the last thing in the world I want is to hear from -- if something ever happens and it passes -- and a public official calls the next year, and I go, "Oh, no. Didn't you hear about the DEPE exception?" or, "Didn't you know that this isn't--"

And believe me, it can always be worse, because if people think you have done something and haven't done anything-- Like the one loophole I brought up, the budget can change it every year with one boilerplate line in the budget; there's no constitutional amendment. That's just -- these are the things that have to be on the table.

So people should know that, because believe me, if it gets down to June 29, and we're looking at an income tax or one sentence in the budget, you know that line is going to go in the budget. Those are the things the public and local officials should be aware of now, that we can address together. I don't say this as criticism. I say it as, let's get it all on the table so people-- Because people will say, "Didn't you testify on this," or, "Didn't you know they were going to put that line in the budget?"

I asked the Office of Legislative Services to look at it. I said, "Will one line in the budget effectively supersede this?" They replied, "Yes."

That's the type of thing that you want to avoid that could simply be avoided with a sentence in the budget. That's how I-- But I think these facts have to come out. It's always worse if it doesn't do what the people think they are going to get. It's similar to everybody calling for deficit reduction in the '80s on the Federal level. It's really been very effective, and we don't want to see that happen.

MR. DRESSEL: Mr. Chairman, if I may. I do not think that State Mandate/State Pay, in and of itself, is going to be the panacea. I think some of the concerns, and very legitimate concerns that you're raising with regard to what happens during the long six months, and then the eleventh hour of June 30th and the final budget machinations-- I don't think this bill -- I don't think any bill, quite frankly, is going to address those particular concerns. Those kinds of things are going to take place.

Maybe we have to take a broader look. Maybe this is one piece.

SENATOR GORMLEY: But those are the institutional problems.

MR. DRESSEL: But there is a systemic problem, maybe with the way we conduct the budget process itself, that we would have to look into.

SENATOR GORMLEY: I'm looking for the same results you are. I'm saying, if you look at this and say, "How would I get around it?" that's how you would get around it. I think what Senator Lynch and Senator Corman were saying, the concept of having--

You know, you mentioned Massachusetts and California, both of which-- California, for example, you talk about local municipalities with debt and bonds. Believe me, for all our problems in New Jersey, you don't want-- What were they, issuing vouchers in California for two months? And Massachusetts' experience with a severe limitation like that wasn't the way to go. But you have to strike a balance.

I think if you're going to have something, it has to have some power behind it -- some force behind it, some force of law. That's what Senator Corman was bringing up. You have to have it.

I remember when this came up a few years ago, as I said, on a nonbinding basis, and everybody was for it. Everybody is for apple pie. Everybody is for it, but after it passes, I'm one, after something passes who says, "Now what?"

I really think people deserve the "now what."

DEPUTY MAYOR MARCHAND: Do you see a forum where we can sit down and work on this soon? I mean, I think--

SENATOR GORMLEY: No, no. You have to understand, I can even take last year's constitutional amendment and work off that, and it might have a chance, because we have the ability to review regulations now.

So suppose that on each regulation we were to require a form of fiscal note, combined with Legislative Services in terms of the property tax impact. See, we ask for a fiscal note. Senator Lynch brought up a good point; that's why I think these conversations are meaningful. We get a fiscal note on State taxes. Why don't we expand the process to get a fiscal note on property taxes? Do for you what we do for ourselves, so that when these regulations--

I think this is something that we could look at now. I don't know?

Randy, what do you think?

SENATOR CORMAN: The idea has a lot of merit to me, if we could use some existing mechanisms to try to get a handle on the way that bureaucracy drives up local property taxes with their regulatory mandates.

MR. DRESSEL: By constitutional amendment?

SENATOR GORMLEY: No, you already did it last year. We have the ability to review regulations.

SENATOR CORMAN: The machinery is now in place.

SENATOR GORMLEY: So in terms of not precluding this, not precluding anything else from happening, but just in terms of, here's a mechanism where we look at regulations-- Why don't we have implemented a system where we look at the property tax costs as we do with the tax costs on the State budget when we have the fiscal notes?

We many times-- But we do have that power, because we can get the information on the property tax impact, and we do get it, and we should actually be doing it in terms of a regulatory basis. That's something, I think as a result of this hearing, Randy and I would recommend that today, that we start to look at that.

But no one is precluding anything; no one is precluding a dialogue. But I think what I've seen is -- I'm going to be very frank -- I've seen a constitutional

phenomena. The public in their thirst for change, the politicians in their thirst to say to the public they're changing things, talk about constitutional amendments that, quite frankly, don't really put the heat on the politician right away. That's why they like the constitutional amendment.

I can't be more frank than that. I don't care for constitutional amendments for the sake of avoidance, because I see this as, "Rah, rah, State Mandate/State Pay," and they'll say, "Oh, I didn't know that line was in the budget. Oh, darn, they slipped it in at the last minute." I think the public officials in this State, and the elected officials deserve more than a shell game.

I'm not saying that's the intent of anyone, but if history were to look back on a process like this 10 years after it were to happen, they'd say, "Here, they passed something." It would look like Graham/Rudman. That's been very effective in capping the budget.

So I think the dialogue is a good one. Your points are excellent, and I think we can, as just one example, look at what we passed in terms of regulation last year, and maybe if we could get that as-- We would appreciate it.

MR. DRESSEL: Fine, that's good.

SENATOR GORMLEY: And what we're going to do is, let's start to get fiscal notes for local government. Why don't we do that? Let's start with what you're already paying for.

DEPUTY MAYOR MARCHAND: You're right.

SENATOR GORMLEY: You're already paying for it. So why don't we start to look and see if we can take the regulatory rule that we have from last year, and let's look at certain regulations as they go through? Let's get this for the property tax effect. Let's get the numbers, and let's see what is an emergency. Maybe there are certain environmental matters where every other town would say, "That town should clean it up." We are not emotional for how they've handled it. But I

think that's the way you do it, or we're going to be left with everybody thinking we solved the problem, walking away, everybody having their own version in their mind.

Bill, you've seen this with I&R. Everybody has a different version of what they think I&R is. I would rather be more precise and see if we can get something meaningful. But with your-- If you would make that a recommendation, I know we'd like to recommend that we start looking at those fiscal notes in terms of property taxes and regulations, and see if we can put that together.

SENATOR CORMAN: We can do that right away.

MR. DRESSEL: I think we can continue a dialogue on that. But like I say, as long as it doesn't preclude ACR-2.

SENATOR GORMLEY: It doesn't preclude anything. It doesn't preclude a thing, but I want it to be-- I think it's important to bring up how you get around it. And I think the public should know that, because you don't want them-- You're very sincere, but you don't want your sincerity-- Because they are going to come back and ask you, "Wait a second. What about this one line they put in the budget?" You don't deserve that with the amount of effort and time that you're putting into this.

MR. DRESSEL: Mr. Chairman, thank you very much. In closing, I have a list of mandates from the City of Clifton. They've asked me to make this a part of the record. They indicate that 45 percent of their budget is made up of mandates. I have documentation.

And Mayor Peter Elco, from the City of Absecon, has some material in support of State Mandate/State Pay. I'll present this to you for the record.

SENATOR GORMLEY: Okay, great. Thank you.

DEPUTY MAYOR MARCHAND: That's exactly what you want to see. I'll get you mine tomorrow.



SENATOR GORMLEY: But you have to understand, I'm willing to take the time. We'll sit down and just do a work session without even a hearing, and we'll start to get into this. But let's make use of last year's constitutional amendment on a property tax basis.

DEPUTY MAYOR MARCHAND: Fine.

SENATOR GORMLEY: We've already passed something that has some teeth in it.

DEPUTY MAYOR MARCHAND: Okay.

SENATOR GORMLEY: All right? And we'll look at Senator Lynch's commission idea. We'll go right into that.

MR. DRESSEL: Thank you.

SENATOR GORMLEY: We're moving the Mayor of Woodbridge to be the last speaker. (laughter) Oh, I'm sorry. Jim, come on up. He loves Irish humor.

MAYOR JAMES E. MCGREEVEY: We're here to talk about League of Municipality dues. (laughter)

SENATOR GORMLEY: Oh, that's what I like. They turn on each other.

How high are they?

DEPUTY MAYOR MARCHAND: (speaking from audience)  
Reasonable.

SENATOR GORMLEY: Reasonable?

MAYOR MCGREEVEY: Reasonable?

DEPUTY MAYOR MARCHAND: More reasonable than property taxes.

SENATOR GORMLEY: Mayor Jim McGreevey of Woodbridge, welcome.

MAYOR MCGREEVEY: Thank you. Senator Gormley, Mr. Chairman, Senator Corman, I appreciate the opportunity to address you here today.

Just a little background: Woodbridge Township is the largest municipality in Middlesex County. It's the fourth largest in the State. We believe that the passage of a

constitutional amendment to provide funding is important for the legal basis it provides for the municipalities of the State.

Like other municipal leaders, we're testifying here before you this morning, sensitive to the burden this places on local governments. We advocate the Legislature should place ACR-2 on the ballot this November, educating the public on the potentially devastating impact which State mandates have on the local property tax burden.

I'd just like to flag a few examples, at the outset, obviously, not critiquing the merit of these programs. Many of these programs are most necessary and worthwhile. We're just requesting that when the State establishes needed programs, as you have so properly stated, there be careful consideration to a stable funding source.

For example, the State has mandated all municipalities achieve a 60 percent recycling target goal. Clearly, this is an issue that will substantially benefit all of us, creating a safer, healthy environment. The difficulty is, the State is not providing ancillary funds which a municipality needs to implement recycling reduction targets.

In Woodbridge Township, we've had tremendous success. Indeed, we will probably be the first township in Middlesex County to achieve the 60 percent reduction target. However, the success does not come without a price. Our recycling program costs approximately \$300,000 each year, which, of course, has to be passed on to the property taxpayers of Woodbridge Township.

SENATOR GORMLEY: If I may, what's your tonnage cost? What people don't realize now is that the tonnage cost of recycling is exceeding the tonnage costs of other forms of disposal. Is your tonnage cost running, overall, at a higher basis to recycling?

MAYOR McGREEVEY: It is. In fact, Woodbridge Township historically had entered into an agreement with some of the neighboring municipalities to handle their recycling.

Unfortunately, we had to terminate that agreement because the cost of recouping the benefits was so low in the marketplace that it was becoming prohibitive for us to collect recycling. Because of the cost, there was no trade off. So we had to terminate agreements with neighboring municipalities because the cost to dispose recyclables was more pernicious than any benefit derived by the municipality.

SENATOR GORMLEY: So you're basically saying--

MAYOR McGREEVEY: Operating at a loss.

SENATOR GORMLEY: I'm in agreement with you on this. You're saying the recycling goals, if achieved, are in effect a mandate on property tax?

MAYOR McGREEVEY: Will, depending on the market conditions.

SENATOR GORMLEY: Well, there will be, because the more recycling is increased, there is less of a market.

MAYOR McGREEVEY: Yes, that potential exists.

Another example is 911, the Emergency Response Telephone System, which has been mandated for all municipalities. Everyone recognizes the merits of this program in terms of saving lives and preventing property loss. Woodbridge Township has had to bond approximately \$2.2 million for the technology and the equipment necessary. We're spending another \$130,000 to hire additional dispatchers and call takers to staff the 911 lines. In addition, the Township will incur training costs for the 911 staff, as well as other expenses.

Another example is State underground storage tank regulations requiring the upgrading of all gas pump locations. This will also result in additional costs of approximately \$200,000 for Woodbridge Township.

SENATOR GORMLEY: Let me ask you a question, because I brought up the hypothetical earlier. Let us assume a town has handled the tanks perfectly, has done a great job environmentally. And let's assume five or six towns are the

same way. But there is a town right in the center that's awful. Don't you think there is a point where the enforcement power, or the police power of the State supersedes a State Mandate/State Pay provision, that they should just be able to tell somebody to clean up and have the township pay for it?

These are questions that I've been getting from other towns. Isn't that a problem?

MAYOR MCGREEVEY: Well, clearly, the State ought to properly regulate storage tanks and require them to be removed. The problem is, whether it's the storage tank regulations, whether it's 911, these are all noble and worthwhile initiatives, ones which I would clearly support. The difficulty is that when the State has a stable revenue source -- namely, the property taxpayers of any given community -- and the State imposes an additional burden, someone has to assume that cost. In the case of all of these, it's the property taxpayers.

So at what point does the State intervene to alleviate the burden on--

SENATOR GORMLEY: I think we're on the same page.

MAYOR MCGREEVEY: Yes.

SENATOR GORMLEY: We're talking, when does the health, safety, and welfare of the general population reach a point where a particular municipality, quite frankly, doesn't deserve State aid? Let's assume they've been negligent with the tank, or let's assume they haven't handled it correctly. I think we have to have different criteria in here, because there are certain towns that should pay because of certain regulations; whereas, the vast majority, I believe, of these regulations are not intended -- are not similar to those that you have in a cleanup situation.

MAYOR MCGREEVEY: Negligence, improper behavior, or illegal behavior surely should have its own ramifications and penalties.

SENATOR GORMLEY: Sure.

MAYOR MCGREEVEY: But I think what we are discussing here today are straightforward regulatory policies, which everyone recognizes the merit. But yet, someone has to pay the cost, and unfortunately, it's the property taxpayers on the local level.

Another example, just for your edification, are the police departments, which have frequently been the target of mandates: an increase in firearm qualifications; mandated CPR training; nighttime firearms training; State Department of Corrections requirements regarding certain lockup facilities; Safe and Clean Neighborhood Programs which stipulate spending levels; changes in State Police high-speed pursuit policy and the related training cost impacts.

I can go on and on, especially with the police departments, but this all has a significant and immediate impact in terms of how the police department budget is allocated.

The State required municipalities to mail tax assessment information to property owners on a special postcard. That cost alone for Woodbridge Township was between \$5000 and \$6000. Whenever a State agency switches to a new form, whether it be for welfare, the courts, or any other entity, it costs local governments money, because the local government has to revise the form to bring it into compliance with the State mandated structure.

In addition, many State agencies have completely stopped supplying local governments with multiple copies of forms and brochures. Instead, the State is requiring local municipalities to distribute these materials, all at an individual cost.

Mr. Chairman, we must recognize that there is much more involved in this discussion, and that is simply the property tax. Not only have you mentioned the need to have State Mandate/State Pay, and to look and to apprise local

municipalities of the burden upon the local taxpayer, but I think there is a broader issue. What is so important about State Mandate/State Pay is that the Legislature needs to permanently place this on the ballot to provide the legal basis and structure to protect the local municipality. That is, in fact, the only way by which we will ensure that larger property tax increases will not be as the result of State legislative action.

As you are well aware, and you are a most articulate spokesperson, the property tax is the most regressive tax. It is levied with no accounting for a person's income. For a number of years, New Jersey has relied too heavily on the property tax as a source of revenue. In fact, property taxes in New Jersey rose by more than 100 percent during the 1980s.

I believe that if, under your leadership, we secure the passage of this constitutional amendment, municipal officials will rally and be most supportive. They clearly want State Mandate/State Pay. I believe they want more than a fiscal note on the potential impact on property taxes. They clearly want the State to assume their proper financial burden for instituting certain programs for which the property taxpayers of this State cannot afford to shoulder in and of themselves.

SENATOR GORMLEY: Randy?

SENATOR CORMAN: No real questions, Jim. I appreciate your coming here. I appreciate your support for State Mandate/State Pay.

Indeed, I have to compliment you. I think your experience as Mayor has broadened your horizons; has made you appreciate some of the problems that local officials have had to deal with. I know there were a couple of State mandates that you voted for when you were in the Legislature, like forced municipal debt, and I guess the little cards that had to go out with the tax bills a couple of years ago. But now that

you have to deal with those on a day-to-day basis, I think that your horizons have been broadened. I think Senator Gormley and myself welcome your input into this process in designing a State Mandate/State Pay mechanism. It can work for all of us.

MAYOR MCGREEVEY: Thank you for your endorsement, Randy.

SENATOR GORMLEY: Let me ask a question: Let's assume that we included school costs in this -- the cost the State mandated the schools -- and let's assume it was before we had changed the law. The original Quality Education Act provided for a phaseout of pensions. Under State Mandate/State Pay, would that have been a constitutional amendment that would have offset the Quality Education Act, and would those pensions -- and we're talking about a real property tax hit -- would they have been made up if there had been a State Mandate/State Pay provision?

You know, suppose we hadn't put the pension money back? If we had a constitutional amendment, as you see it-- Let's say it was even broader based. Are we saying that the ideal for a State Mandate/State Pay provision would be that even if the Legislature were to have upheld taking away the pension money and phasing it out for towns, towns would have to pay that cost? That was a mandate on those towns. We were phasing out the payment of the pension costs. Would State Mandate/State Pay have served as an offset to the Court, saying that you couldn't provide the pension money down the road?

In other words-- That's the biggest mandate of all, when they were going to phase out the pension costs. Everything else is substantial, but certain towns, when they were phasing out the pension aid, that was the bottom. I mean, that was the number; that was the cruncher. That was the biggest mandate of all.

Would you like to see something that would offset that danger? Because let's face it, if you look at the language of

the Supreme Court case, eventually the courts are going to come back to pensions. Maybe not next year or the following year, but they're circling the pension language.

You see, I'd rather be much more specific, if you see what I'm saying. But I'd rather have a guarantee that the pension money would always be paid for in the Constitution, because I know that's something they will always be circling, and if you lost the pension money in certain towns-- I don't know the numbers of some of the officials that are here, but if you lost the pension money, forget it. Do we cross over into education? Those are the ultimate mandates.

And something else I have to think about: If all these costs -- and I have to deal with this hypothetically -- but suppose you had a police force where-- Let's face it, you could almost make everything a State mandate, and to a great degree, the Attorney General, or whomever, have a great control of the police forces. Well, suppose we show that 60 or 65 percent, down the road, of a police force's budget through State Mandate/State Pay is being paid for by the State? Morally it might be correct, but what level of control does the State have, and how does that affect home rule then?

I mean, these are the kinds of things that I think we should discuss now, rather than later, because when the aid gets distributed-- Because I'll tell you, whenever we have debates about school aid, and a certain district is getting more than 50 percent of their money from the State-- Let's assume this could be a police department, or whatever it might be, there is a call, "We want a higher level of control. We want control over their budget."

One other safeguard that we have to have is existing State aid. There must be some State aid beyond school aid for example, that your municipality receives. And what we don't want to see is a system, like with gross receipts, that we brought up earlier, that we just go back in and say, "Oh,



here's how we're paying for the mandate, we're taking 3 percent from gross receipts." That's a safeguard. Believe me, you'd have to have that in any form of constitutional amendment, or that's exactly what will happen.

MAYOR MCGREEVEY: They're going to rob Peter to pay Paul.

SENATOR GORMLEY: They're just going to go into gross receipts and say, "We're already paying for that mandate."

MAYOR MCGREEVEY: And it would be a duplicitous method of reimbursing the municipalities for a State mandate.

SENATOR GORMLEY: And that's not precluded. Those are the kinds of things you want to put on the table now, so people don't think they're getting a shell game a year from now.

MAYOR MCGREEVEY: I think the point is well-taken, Senator. I don't think anyone can possibly foresee every potential variable. And I think, as you said, whether it's a fiscal note or whether it's a body to review what constitutes an appropriate realm of State mandate. I mean, obviously, the Attorney General, properly within his power as Attorney General, ought to be designating and requiring certain police procedures, which may, in fact, increase limited costs. And it's difficult to ascertain what the proper threshold against which he crosses, and it becomes a new burden, which is--

SENATOR GORMLEY: Well, can I tell you something that you know and I know. I'd be shocked if I were in your position and I didn't say that it was new. I mean, you'd have to. If you have a form of legitimate argument to offset a property tax increase, that's your job, and you would do that. I know you would do it forcefully. But I think that anything he would say that relates to taking up the time of even existing officers, you'd want an offset.

MAYOR MCGREEVEY: Sure. And maybe the best way to do it is to construe, just broadly based, the difference between operational expenditures in a municipality's budget and the

capital expenditures in a municipality's budget. I think operational budgets, you know, clearly increase on an incremental basis, year-to-year, depending on labor costs and fixed programmatic targets. In some of the items that I mentioned, it was the substantial capital costs that were undertaken -- especially in terms of 911 and underground storage tanks, that were done, but very true of State mandates -- that clearly were not anticipated or could not be assumed in the regular annual operating expenditures.

I think, if you will, a conceptual differentiation between capital and operational, hopefully, will provide a demarcation.

SENATOR GORMLEY: Very good. Good point. Thank you.

MAYOR McGREEVEY: Thanks, Your Eminence.

SENATOR GORMLEY: Thank you for your testimony.

R O G E R W. D A L E Y: Senator, I'm not on the list.

SENATOR GORMLEY: I'm sorry?

MR. DALEY: I'm not on the list. I'm Freeholder Roger Daley, from Middlesex County.

SENATOR GORMLEY: Oh, okay.

MR. DALEY: I would like to thank the Committee for coming to our County Seat and conducting this type of hearing.

SENATOR GORMLEY: Thank you.

MR. DALEY: With your backs to the building where we deliberate our budget here at the County level, it's important that the State have this type of commitment to county officials. There are times when it appears that State government is relatively remote to what we're trying to do at the county and at the municipal level. But I think this type of commitment--

We realize the difficulty of putting together a staff, putting it on the road, and traveling around the State. But it changes, I think, the relationship between officials at all

levels. I think if we're going to solve the problems that we have at all levels, we have to have that type of commitment that you show by taking the effort to come to our County Seat.

We're very proud of New Brunswick, we're proud of Middlesex County, and we're proud to have you here today. As a Middlesex County Republican Freeholder, and being Irish, it's difficult to follow the Democrats, McGreevey and Lynch. They're a little more articulate than the Republicans are, but we're--

**MAYOR MCGREEVEY:** (speaking from audience) They went to Jesuit schools.

**MR. DALEY:** That's right.

**SENATOR GORMLEY:** Well, having gone to Notre Dame, the family name being O'Gormley, I can have compassion for you.

**MR. DALEY:** But you see, you come from the southern part of the State. We Republicans here are up against McGreevey and the Jesuit educated people.

But we're very happy to have you, and we can't express our appreciation for you taking the time and the effort to be here.

**SENATOR GORMLEY:** Well, hopefully, people will find this not just a hearing, but Senator Corman and I-- Hopefully, people will find that we're actually talking substance, and we're going over real issues, instead of everybody patting everybody else on the head, because the focus of the hearing is that when people look back in time, and when they look at the transcript, they'll say, "They brought that up."

I hope people will find that meaningful.

Thank you very much for your welcome. It's appreciated.

**MR. DALEY:** Thank you, Senator.

**SENATOR GORMLEY:** Mayor Richard Rutkowski, of Bayonne?

**MAYOR RICHARD A. RUTKOWSKI:** Right here.

SENATOR GORMLEY: Why don't we adjust the schedule a little? Right after Mayor Rutkowski, we're going to have Mayor McNamara of Tinton Falls.

Mayor?

MAYOR RUTKOWSKI: Mr. Chairman and members of the Committee, my name is Richard A. Rutkowski, the Mayor of the City of Bayonne, a Jesuit high school and college product. I would like to thank you for allowing me to speak today on the State Mandate/State Pay issue.

The City of Bayonne is an older, urban community that is currently confronted with a true fiscal crisis. We have a rising tax rate, declining collection rate, and are in the process of issuing layoff notices. Our fiscal crisis is compounded by the many State mandates that have been visited upon us without any corresponding funds.

As Mayor of Bayonne, I would like to take this opportunity to give you a few examples as to how Bayonne has been affected by these State mandates.

The State has required that all communities achieve a 60 percent recycling rate. Over the past few years, Bayonne has spent several million dollars in attempting to achieve this goal. With the exception of some small tonnage grants, this cost has been borne by the taxpayer.

In 1991 the State mandated that we convert to a fiscal year. In order for us to meet this mandate, Bayonne had to issue \$10,240,000 in a fiscal year adjustment bond. The cost of the associated debt service is being paid by the taxpayer. We have received no moneys from the State in regard to this mandate.

Starting in 1992, the City has been required to annually mail tax assessment notices. The merits of this program are dubious, but the cost is real. Again, we have received no help from the State in underwriting the cost of printing, supplies, postage, and labor that relates to this mandate.

The Business Retention Act is yet another mandate that is costing my City. The passage of this bill has already cost us tax ratables, and will continue to do so in the future. Bayonne taxpayers have absorbed the full cost of these lost ratables.

The past practice of the State mandating various programs and activities upon municipalities, with no corresponding source of funding, has brought us to the brink of fiscal instability. Not only must this practice stop, but municipalities must also be compensated on a current basis for mandates imposed upon us in the past.

I strongly request that the State live up to its moral obligation and provide cities with the funds that are needed in order to meet State mandated obligations. The damage that has already been inflicted is enormous. Please help us stop the bleeding so that the patient, namely the property taxpayer, can recover.

I appreciate the opportunity to speak with you here today, but the taxpayer would appreciate your help in ending unfunded State mandates. In terms of true property tax reforms, ending the practice of unfunded State mandates is a major step. Please help.

Thank you.

SENATOR GORMLEY: Mayor, thank you very much for your testimony.

Ann McNamara, Mayor of Tinton Falls?

MAYOR ANN Y. MCNAMARA: Thank you, Senator Gormley.

I represent not only the Borough of Tinton Falls, which is, in the last census results, the fastest growing residential municipality in Monmouth County. We experienced 59 percent growth. But I also represent the Two Rivers Council of Mayors. We meet monthly to discuss problems common to the mayors of the boroughs. I'll read them, Senators: Tinton

Falls, Shrewsbury, Shrewsbury Township, Rumson, Fair Haven, Red Bank, Ocean Port, West Long Branch, Eatontown, Highlands, Monmouth Beach, Little Silver, and Sea Bright.

One of the most often discussed problems is property tax relief. State Mandate/State Pay is one way that we see that property tax relief can be enacted. There are other ways.

As a person whose birth place is Massachusetts, and one who has a married son in California, I can only underscore what you said, Senator, about what one-shot deals promised to the taxpayers can really result in. Everything you said is absolutely true.

So I share your caution in the peoples' belief that State Mandate/State Pay will solve all the problems, or Initiative and Referendum will solve all the problems. It's a very real and accurate judgment on your part.

But I would urge you to look at whatever measures-- It could be a fiscal note on the property tax; it could be State Mandate/State Pay -- something to give us property tax relief, which is the most regressive tax possible and pits one group of people, as you well know, against the others.

Your concerns with the school budgets are very accurate. We're faced with tremendous school budgets necessitated by our growth, and you have tremendous division between groups of people. In their frustration, hate comes out. And, of course, they all blame the lack of credibility on politicians, starting for us at the municipal level, going right on up into Trenton, which often is not fair.

SENATOR GORMLEY: But unfortunately, sometimes it is fair.

MAYOR McNAMARA: I'm looking at the other, and often it isn't. Nevertheless, this is what happens.

SENATOR GORMLEY: Thank you very much for your testimony. It was very thoughtful. Thank you.

MAYOR McNAMARA: Thank you.

SENATOR GORMLEY: Mayor Samuel V. Convery, of Edison?  
(no response)

John Henderson of the New Jersey School Boards Association?

J O H N . M. H E N D E R S O N: Thank you, Senator. I'll paraphrase my statement.

SENATOR GORMLEY: Thank you.

MR. HENDERSON: Thank you very much, Senator. I want to say at the outset, whatever happens to this bill and what you do with my request, I have every confidence that if you can't give it to me, I'll know exactly the reasons why, as opposed to what happened in the Assembly, where I thought that the issue was very unfairly politicized.

As you know, this bill requires the State government to pay the cost for any new or expanded program or services it mandates upon counties or municipalities. We would like to support the bill, but we would like to get into it first.

Since ACR-2's introduction, the sponsor, former Assemblyman Franks, repeatedly rejected our requests to get in the bill. He said he believed school district costs were a separate issue, and that he would support separate legislation for school districts at a later date. But municipalities and counties are separate entities, and yet are lumped together in ACR-2.

The reality is that unless school districts are included in this very bill -- this is the bill that has the juice, this is the bill that has the media attention -- introducing separate legislation for school districts will not get the attention. The sponsor stated grandly and with conviction that, "If the Legislature believes a new program is necessary to protect the health, safety, and welfare of our State and its citizens, we should be willing to find resources to fund it." A very grand, very correct statement.

He also said, "The Legislature would no longer be able to force local officials to take the heat for rising property taxes to pay for new State mandates." Also correct, also on target.

The truth, however, is that children are also citizens of the State. Their health and safety is compromised when the implementation of a thoughtful State mandate is delayed because the local district funds are not there. The sponsor's comments should apply to school children as well.

Let me give you two examples of what will happen if you pass ACR-2, and you don't do something about school districts. You have two very hot issues in the State: clean air, and remediation of lead in drinking water. I'm surprised, as a matter of fact, that the issue of lead in drinking water hasn't burst onto the legislative scene; there's been all kinds of activity. People throughout the State are getting notices about high lead levels in their water bills.

But unless ACR-2 is amended, school district costs for remediation of clean air and lead in drinking water would either be passed on to the local taxpayers, or as likely, be diverted from the district's educational programming efforts.

Now let's shift gears and look at this in a coldly political way. ACR-2 would offer only slight relief to local officials for rising property taxes, since 75 percent of any municipality's tax load is school expense related.

Please note, too, that we're trying to be as realistic as possible. We're not looking for QEA funding out of this.

SENATOR GORMLEY: Believe me, I've got your drift.

MR. HENDERSON: Okay. I just wanted to add, before you-- We don't want past things. We don't want QEA funded out of this. This is just for new stuff that's thought of.

SENATOR GORMLEY: I'm curious, though. What dollar amount -- have you looked at this -- what do you attach the new idea, dollar amount, to local property taxes per year? Is it \$100 million a year, \$200 million?



MR. HENDERSON: We haven't--

SENATOR GORMLEY: I would really appreciate--

MR. HENDERSON: We probably can get that.

SENATOR GORMLEY: What is it? Because if you're saying-- You know, what I'd like to do is, let's have everybody quantify it. Let's quantify what this costs us. Is it \$100 million for the municipalities, \$100 million for the counties, \$100 million for the schools? Is it \$10 million; is it a billion?

What are we passing? We should know what the dollar amounts are. So what we'll do is, we'll request projections. Obviously, no one can have a hard number, but let's try to get an idea of what the dollar amount is. We're saying, "State policy should be changed so that these costs are paid for." But I don't-- Maybe we should have done this before this day, but I think we have enough time. If it's of such impact, then we ought to have some idea of what the numbers are.

You're saying, "exclusive of QEA." But suppose there were prospective changes to QEA? Would you want those included? We understand retroactive; I think everybody understands retroactive. But we're talking a prospective change to QEA or any other regulation, you're saying these should be paid for.

MR. HENDERSON: Well, because QEA is such a huge amount of money and receives the focus of the State so directly, I guess my answer is, it depends. What I'm thinking of in terms of State mandate, and what's problematic right now is that things like Mayor McGreevey was talking about, underground storage tanks-- Well, there are school districts now that still haven't removed them all -- leaking underground storage -- because it's either remove the underground storage tanks, or don't buy new text books for the high school class. So on the one hand, you either choose between text books or compromising the kids' health. It's those things, rather than QEA, that our focus is on.

SENATOR GORMLEY: But actually-- I can understand that, but I think the point is, you would provide us numbers exclusive of QEA in terms of your projected increases. However, let's face it, it does have an effect if you were ever to get a measure like that passed, because it frees up some of your limited discretionary ability in terms of the other school funds.

So if we could have that number, I'd appreciate it, because I think people want to start to know the number. We've talked about the problem -- the burden -- and I think the public would like to see it in some form, as best as possible. We realize it's impossible to give an accurate number -- a totally accurate number -- but I think the public would like to see it quantified.

MR. HENDERSON: We've done it on a percentage basis. I don't know if we have the raw numbers back in the office, but approximately 76 percent, 74 percent -- between 74 percent and 76 percent -- of any given town's municipal taxes goes to the schools.

SENATOR GORMLEY: Well, what I'm saying is: What I would like to know is, in terms of your definition of State Mandate/State Pay--

MR. HENDERSON: What we would want in the bill, and what out?

SENATOR GORMLEY: No. I'd like to know from the school boards and from the municipalities-- We'd like to know what is this a year? Is it \$300 million? Is it \$400 million? What are we talking a year that we'd have?

Somebody pays for this. Somewhere, someone pays for it. People are more circumspect if they're both the person paying for it and the regulator. The State has had the advantage of being the regulator but not the one paying for it. That's a very, very good position to put people in.

They're much more thoughtful when it's their money they're spending, or it's their day at the ballot box. It really causes you to become much more circumspect.

So I think to add the process along-- I think if we could look at the numbers, I think that adds something. And I really haven't seen numbers. We've heard percentages a lot, but if we could just get an estimate of, "This would cost the State \$250 million a year, and it increases every year." It also makes the argument for the other side at the same time.

If you could, I would appreciate it. Given the number of school districts and the points that you've brought up, I would be shocked if it was not -- even excluding QEA -- if it wasn't a fairly substantial sum of money. I think it would make for an interesting addition to the process.

MR. HENDERSON: Thank you.

SENATOR GORMLEY: Thank you.

MR. HENDERSON: One final point: There are approximately five to ten -- and I have to say five to ten, because some states will fund their big piece of school aid out of State Mandate/State Pay, and other states don't -- but there are five to ten other states, the biggest of which is California, which already have State Mandate/State Pay that include school districts. So we wouldn't be setting a precedent.

SENATOR GORMLEY: Let me tell you something: The last thing we want to do -- that's why I appreciated the comments of Mayor McNamara -- is recreate California.

MR. HENDERSON: Their school issues are different than State mandate. I mean, they have tremendous immigration.

SENATOR GORMLEY: But the thing is, what they have done to their constitution and what they have done with local debt, they have made the local municipalities the mini-Kuwaits of public finance, because of passing things on. So California is-- What, for two months they were using vouchers at the state level?

I just think from a personal perspective, and maybe I could be wrong, but I don't think California is an example we want to recreate.

Roberta Svarre, Bergen League of Municipalities?

By the way, we will make copies of all the testimony that has been provided available to all Committee members in a packet, so they will be able to review the testimony.

**C O U N C I L W O M A N   R O B E R T A   S V A R R E:** I'd like to thank you, Chairman Gormley, and whatever members of the Committee remain, for the opportunity to testify today. I'm Roberta Svarre, Councilwoman from the Village of Ridgewood, former Mayor, and I'm representing the Bergen County League of Municipalities.

The State Mandate/State Pay issue is the priority issue for the 58 member communities of the Bergen County League of Municipalities. We have used, and we will continue to use every avenue to lobby our legislators for relief from the overregulation that has so limited our ability to govern in what we consider to be the best interests of our community.

As elected officials, it is our responsibility to honestly and fairly represent our constituency. We are among the fortunate. Bergen County is among the wealthiest areas in both the State and in the country. Yet, we face the same problems as communities throughout the country. The recession has had a severe impact on our taxpayers and on their ability to support government spending, even at current levels.

I'm going to give you examples from my own community of Ridgewood, but they are typical of all of the problems faced throughout our area. In 1991 we had a total of 208 assessment appeals on \$94-plus million of property value. They were reduced by \$1,742,500. This year we have even more. There are 301 appeals on nearly \$108 million. We don't have the resolution of that yet, but you can see where this is going to go.

Though we at the local level cannot solve problems affecting the national and State economies, we are forced to bear the burden of decisions made at those levels. Government at all levels has only one funding source. And I think, Senator Gormley, this is what you have been talking about as we've circled this issue today. It's the taxpayer, and it's the taxpayer who is paying, whether it's property tax, State tax, or Federal tax. I think what we're trying to do today as municipalities is to talk about combining responsibility with accountability.

SENATOR GORMLEY: I know one of the problems, one of the issues, that has come up from Bergen County was when the Ford deduction was eliminated. I mean, that was something that was very sensitive to the Senators and Assemblypersons from Bergen County.

COUNCILWOMAN SVARRE: I think Senator McNamara was very outspoken on that.

SENATOR GORMLEY: Very outspoken about it. Also, just so you know, we have from Assemblyman Roma -- he's sent an endorsement on State Mandate/State Pay today -- testimony. But I think what we have to do is balance, especially in Bergen County, getting these numbers in in terms of what the State cost is going to be when you pick it up. Because if we look at share of income tax paid by a county, Bergen is one that I would assume is at the top, if not--

COUNCILWOMAN SVARRE: It is going to be at a high percentage. There's no question.

SENATOR GORMLEY: It is a high percentage, and when you say the State--

COUNCILWOMAN SVARRE: We are talking--

SENATOR GORMLEY: We're talking--

COUNCILWOMAN SVARRE: This is true; we understand this.

SENATOR GORMLEY: Senator McNamara, believe me, has made these points very clear to us in caucus over the years.

So this is the balancing that we have had to do with the issue over the years.

COUNCILWOMAN SVARRE: We appreciate this. We've spent a good deal of time with Senator McNamara, who, as you know, is highly supportive on this issue.

We're talking fairness. The taxpayer is becoming increasingly sophisticated -- we see this at the national level -- and I don't think we should underestimate the intelligence and awareness of the taxpayer. It's our responsibility as local officials to make sure that our residents understand precisely what's happening, which is why I'm not really in support of your -- it was Senator Lynch's idea -- of a commission.

I think to place an appointed body between the people and their representatives is a mistake. I think you want to have less government, not more, and keep the lines of communication as open as possible.

I can't speak for the entire organization. This idea was presented today, and that's my own response.

I would like to go through some of the ideas you had talked about, some of the regs and how they affect municipalities. I've got some very concrete examples here.

Certainly, nobody is going to oppose the cleanest, soundest environment that we can possibly have. However, I think you've got to look at the issue of how clean is clean, and what is it going to cost us. We operate a 60-well municipal water system that provides water for surrounding communities as well as our own. We're being hit with a cleanup of volatile organics, mandated by the DEPE.

SENATOR GORMLEY: Was that due to the Clean Water Act?

COUNCILWOMAN SVARRE: No, this was not the Clean Water Act. This is the volatile organics this is referring to. This is well water.

We are required to meet contaminant levels that exceed by a great deal-- We're talking about one part per million, versus the EPA five parts per million standard. Of the 13 wells that we have to clean up, we wouldn't have to clean up six of them because they meet current standards.

So, in other words, if you were drinking this water in Connecticut or New York, it would be perfectly clean. But in New Jersey it's going to cost us approximately \$7 million to meet that standard, to make our water cleaner than their water.

We have the same situation with our municipal pool. It's a pond that originally drew water from the Ho-Ho-Kus Brook. The DEPE determined that we could no longer do that. In the '50s we had to put in a pumping system. Now it must draw water from our drinking water system. And now the DEPE is telling us that we can no longer discharge because of the chlorine that they require us to put into the pool. I mean, we are seeing a Catch-22 at the highest levels of government here.

We have already committed \$12,000 for a study, and it's going to cost us millions of dollars to remedy this situation.

Our wastewater situation is very similar, and I think this is a perfect example of the kinds of regs that you've been talking about. It currently costs us \$1.8 million a year to handle and treat our wastewater. We're one of the few municipalities that operate our own sewage treatment plant.

Under an Administrative Court order we're required to improve the treatment. DEPE has indicated that they don't have all of the regs in place yet, so we should adopt a piecemeal remediation and meet new requirements as they come down. This does not help us in terms of long-range, sound fiscal policy.

The procedures, right now under current regs, will require us to spend between \$16.5 million, up to a possible \$39 million, and this is just to meet existing water quality criteria. It's going to result in Ridgewood's costs increasing

to between \$3 million to \$5 million a year and more in costs. The uncertainty of it leaves us with a sword of Damocles hanging over our heads.

I could give you many other examples of regs, but I'd like to talk about two other areas that we see as things that the State really could change that would make a big difference. One is the Construction Project Reserve. Under State law it calls for a reduction of reserves from 10 percent to 2 percent after a project has reached the \$100,000 mark. This law favors contractors and limits our ability to get satisfaction, because many contractors would be perfectly happy to walk away with 2 percent of a large public works project.

Another area, and this goes back, again, to--

SENATOR GORMLEY: Have you had circumstances where they have walked on you?

COUNCILWOMAN SVARRE: We haven't, but we've had trouble getting-- I mean, we've had to work with it, and really go after them.

SENATOR GORMLEY: Okay.

COUNCILWOMAN SVARRE: And we could easily see how it could happen.

Another area is the reserve for uncollected taxes. The way the law is written now, it's all written into the municipal budget. The preliminary 1992 appropriation increased our budget -- well, not preliminary -- increased our budget by \$1.7 million by using a 97 percent collection rate. The actual amount related to the Village's tax levy was only \$475,000. The balance of the appropriation is comprised of county and school reserves.

So what this does, again going back to accountability, our budget went up 8 percent. It's the same taxpayers, but they don't see where the money is being spent. This is what, really, we are talking about, accountability.



In summation, I would ask that you pass this legislation. We feel very strongly that this is the way to go, and that you should give the taxpayers of New Jersey that sense of awareness of where their money is going, why it's being spent, and how.

Thank you.

SENATOR GORMLEY: Thank you.

Mary Burdick, Council member, Fair Lawn?

**C O U N C I L W O M A N M A R Y B U R D I C K:** Good morning, Chairman Gormley, and members of the New Jersey State Judiciary Committee.

My name is Mary Burdick. I am a member of the Municipal Council of Fair Lawn, former Mayor, and Fair Lawn's representative to the Bergen County League of Municipalities. I am happy to be here today to testify on behalf of both bodies.

For years municipal governments have unsuccessfully pleaded with State legislators to fund their mandated programs. Many other representatives of municipalities will undoubtedly speak on a long list of State mandated programs related to the delivery of services that are to be performed or administered by municipalities.

Today I would like you to consider that the largest part of local budgets are related to salaries, wages, and benefits. Since the PERC law was enacted in 1968, there has been a steady erosion of the concept of local governments and their employees as equal participants at the bargaining table. The playing field is no longer level. Special considerations have been given to many special interest groups. The most egregious, of course, is the compulsory arbitration law. This law, gone awry, has, as you know, resulted in unreasonably high salary increases for police and fire unions, increases which have had their impact on salary demands by other unions.

And there is more: Municipalities are mandated to base compensation for certain employees on negotiated union agreements. These include police chiefs, chief financial

officers, borough clerks, tax assessors, and tax collectors, making them of dubious value as disinterested resource persons in the negotiations process.

In addition to rapidly escalating base pay, 35 percent to 40 percent of each dollar must be added for fringe benefits. Then there is the high cost of legal and other fees associated with negotiations and arbitration.

With a 1.5 percent cap on our budget, how do we manage? Do we decimate the police department, close our parks and playing fields, eliminate the senior citizen center, or let our streets and roads go to pot?

As creatures of the State, local governments need benign treatment, not impossible unfunded mandates.

Thank you very much for your attention.

SENATOR GORMLEY: Very good. Thank you for your testimony. I guess you would say that -- I don't want to speak for you, but -- if you had to pick one bill that you would like to see pass, it's compulsory arbitration?

COUNCILWOMAN BURDICK: What I am simply saying is that, in your wisdom, if you wish to give preferential treatment to certain groups, pay for it.

SENATOR GORMLEY: Excellent point.

COUNCILWOMAN BURDICK: Okay. Thank you very much.

SENATOR GORMLEY: We have two speakers from Old Bridge, Jack Coughlin, Administrator of Old Bridge; and Tom Badcock, Assistant Business Administrator, representing Mayor Canon from Old Bridge.

W. T H O M A S B A D C O C K: That's me, Tom Badcock. Jack Coughlin isn't here. He's down at Trenton, today, working with Mike Dill and the local government services on our budget.

SENATOR GORMLEY: Oh, okay.

MR. BADCOCK: I really don't have a prepared statement. I just wanted to address the Committee -- thank you for your support of this bill, ACR-2 -- and wished to come in today to relay, from a municipality that has had a serious

amount of trouble based on the move to the fiscal year and our financial problems, although there has been conflicting opinion about whether it has been forced upon us or whether we did, indeed, do it, as some of the other urban mayors voted to do it, as an option.

SENATOR GORMLEY: How much debt did you float?

MR. BADCOCK: We went to \$9 million, and we should have probably been at about \$14 million.

SENATOR GORMLEY: So now you're stuck with that long-term debt?

MR. BADCOCK: So now we're stuck with a long-term debt at a time when, because of the factors of reassessment and our tax rate -- delinquent taxes -- the whole situation has combined to put us in a very tenuous position financially.

SENATOR GORMLEY: So now all you have left is the press releases from the year before, showing a lower property tax rate?

MR. BADCOCK: Right, right. Obviously, with all the conflicting opinions about different programs that the State will mandate, we are hopeful that we will see this bill pushed through, and will receive a pay for by the State, sanctioning State mandated programs in the future to help us through our pending, and what we see as probably a long-range, financial crisis that we will incur for years to come.

SENATOR GORMLEY: Thank you very much.

MR. BADCOCK: Thank you.

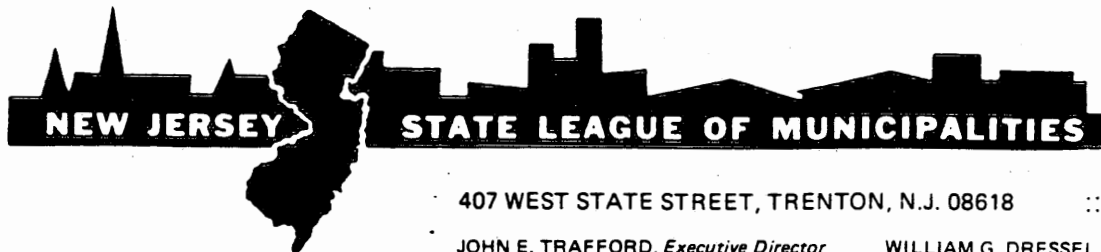
SENATOR GORMLEY: We appreciate you coming.  
That will conclude the public hearing.

**(HEARING CONCLUDED)**



## APPENDIX





407 WEST STATE STREET, TRENTON, N.J. 08618

:: (609) 695-3481

JOHN E. TRAFFORD, *Executive Director*

WILLIAM G. DRESSEL, JR., *Asst. Executive Director*

## MANDATE EXAMPLES

State Aid Funding information must be listed on tax bills. These increased costs are, in effect, a political advertisement for incumbent State legislators.

Mandatory library funding levels create a budgetary sacred cow.

Police and Fire Pension enactment - 65% after 25 years.

Police Chiefs' Salary Rate - must be 5% greater than next ranking officer.

Condo Services Act. Public fund must be dedicated to private communities.

Fire and Elevator Safety Inspections - Costly and excessive.

Warning sirens must be moved if they are too close to schools and playgrounds.

Ammunition for police firing ranges qualifying twice a year.

State PEOSHA required all new fire helmets and coats for all firefighters.

Right-To-Know-Law paperwork requirements.

Clean Water Act. Unreasonably high standards and fine for nonattainment.

| X

1990-91

ASSEMBLY, No. 2328

STATE OF NEW JERSEY

WMS

A-3153

1988-8

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen FRANKS and STUHLTRAGER

1 AN ACT concerning full State funding of requirements imposed  
2 upon county and municipal governments to provide new or  
3 expanded programs or services, supplementing Title 52 of the  
4 Revised Statutes.

5  
6 BE IT ENACTED by the Senate and General Assembly of the  
7 State of New Jersey:

8 1. This act may be known and shall be cited as the "State  
9 Payment for State Mandates Act."

10 2. The Legislature finds and declares that:

11 a. Actions of the State government that directly or indirectly  
12 prescribe the manner, standards, level and conditions of public  
13 services to be provided by the State's counties and  
14 municipalities, are often taken with little regard for the fiscal  
15 consequences of such actions upon the affected local jurisdictions.

16 b. Many of the State's counties and municipalities are  
17 experiencing varying degrees of fiscal stress resulting from the  
18 need to provide adequate public services to their citizens but  
19 without the local tax resources to do so.

20 c. The State government, prior to imposing new or expanded  
21 service requirements upon its political subdivisions, should be  
22 aware of and confront the issue of where the burden of paying for  
23 those requirements will fall.

24 d. It is appropriate, therefore, that the State government  
25 provide full funding for any net additional costs to counties and  
26 municipalities that are incurred by those jurisdictions in  
27 complying with the required performance of a new or expanded  
28 program or service under the provisions of any State law, rule,  
29 regulation or order.

30 3. As used in this act:

31 "Board" means the Local Government Mandates Appeals Board  
32 established pursuant to section 9 of this act.

33 "County" means the governing body and the officers and  
34 employees of a county.

35 "Expanded program or service" means a program or service the  
36 scope or level of which would be increased, extended or enhanced  
37 by a county's or a municipality's compliance with the provisions  
38 of a State law, rule, regulation or order. "Expanded program or  
39 service" shall include an expanded program or service arising  
40 from a county's or municipality's compliance with the provisions  
41 of a law, rule, regulation or order in effect prior to and on and



1 after the date of adoption of paragraph 5 of Article VIII, Section  
2 II of the New Jersey Constitution.

3 "Municipality" means the governing body and the officers and  
4 employees of a municipality.

5 "Net additional cost" means the cost or costs incurred or  
6 anticipated to be incurred within a one-year period by a county  
7 or municipality in performing or administering a new or expanded  
8 program or service required by a State law, rule, regulation or  
9 order, after subtracting therefrom any revenues received or  
10 receivable by the county or municipality on account of the  
11 program or service, including but not limited to (1) fees charged  
12 to recipients of the program or service; (2) State or federal aid  
13 paid specifically or categorically in connection with the program  
14 or service; and (3) any offsetting savings resulting from the  
15 diminution or elimination of any other program or service  
16 directly attributable to the performance or administration of the  
17 required program or service.

18 "New program or service" means a program or service  
19 different in kind or purpose from those in existence at the time  
20 of the enactment of a law or promulgation of a rule, regulation or  
21 order requiring the performance or administration of the program  
22 or service by one or more counties or municipalities.

23 "Office" means the Office of Local Mandates established  
24 pursuant to section 5 of this act.

25 "Program or service" means a specific and identifiable activity  
26 of a county or municipality which is available to the general  
27 public or which is conducted, administered or provided for or on  
28 behalf of the citizens of the county or municipality.

29 4. a. Notwithstanding any law, rule, regulation or order to the  
30 contrary, and except as provided in subsections c. and d. of this  
31 section, any provision of a law or of a rule, regulation or order  
32 issued pursuant to law, which becomes effective on or after the  
33 effective date of this act, and which has the effect of requiring a  
34 county or municipality to perform or administer a new or  
35 expanded program or service having a net additional cost in  
36 excess of either \$1,000 for any county or municipality or  
37 \$100,000 for all affected counties or municipalities, shall be  
38 inoperative upon the county or municipality until a State  
39 appropriation is made and sufficient funds provided to each  
40 affected county or municipality as may be necessary to pay in  
41 full for any net additional cost of compliance with the  
42 requirement.

43 b. A law subject to the provisions of subsection a. of this  
44 section shall make an initial appropriation therein in an amount  
45 sufficient to pay in full any net additional cost of compliance by  
46 the affected counties or municipalities, or both as the case may  
47 be. Thereafter, the State shall provide funding for continuing  
48 programs or services subject to the provisions of subsection a. in

1 the annual appropriation act or supplements thereto or in  
2 appropriations of bond monies or other designated sources of  
3 funding.

4 A rule, regulation or order subject to the provisions of  
5 subsection a. shall be funded in the annual appropriation act, in  
6 one or more supplements thereto, or in appropriations of bond  
7 monies or other designated sources of funding.

8 c. The provisions of subsection a. shall not apply to any new or  
9 expanded program or service that:

10 (1) is required by or arises from a court order or judgement;

11 (2) is provided at the option of a county or municipality under a  
12 law, rule, regulation or order that is permissive rather than  
13 mandatory in its application;

14 (3) is required by private, special or local laws pursuant to the  
15 requirements of Article IV, Section VII, paragraphs 8 and 10 of  
16 the New Jersey Constitution; or

17 (4) is required by or arises from an executive order of the  
18 Governor exercising his emergency powers pursuant to  
19 P.L.1942,c.251 (C. App. A:9-33 et seq.).

20 d. The provisions of subsection a. shall not apply when a law  
21 requiring a county or municipality to perform or administer a new  
22 or expanded program or service is enacted without making an  
23 appropriation pursuant to subsection b., provided that the bill  
24 resulting in the enactment of that law shall pass the Legislature  
25 by a two-thirds majority of all the members of each House.

26 5. a. There is established in the Division of Local Government  
27 Services in the Department of Community Affairs an Office of  
28 Local Mandates. The office shall have as its primary function the  
29 review of proposed and adopted legislation, rules, regulations and  
30 administrative and executive orders for the purpose of  
31 completing a local impact statement which shall contain a fiscal  
32 analysis of the net additional costs to a county or municipality  
33 that will result from any new or expanded program or service  
34 that the county or municipality would be required to perform or  
35 administer as a result of such proposed and adopted legislation,  
36 rules, regulations or orders.

37 b. The Commissioner of the Department of Community  
38 Affairs, upon the recommendation of the Director of the Division  
39 of Local Government Services, shall appoint and employ all  
40 persons, including accountants, attorneys, auditors, financial  
41 analysts, management, purchasing and personnel analysts, and any  
42 other individuals with experience in local government operations,  
43 and such clerical and technical assistants whom the office may  
44 require within the limits of available appropriations.

45 6. a. Whenever any bill is introduced in either the Senate or  
46 General Assembly, and that bill receives first reading pursuant to  
47 the rules of the House in which it is introduced, the bill shall be  
48 immediately reviewed by the Legislative Budget and Finance

CAN THIS  
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E.C. WILKINSON

1 Officer in the Office of Legislative Services. If, upon his review,  
2 the Legislative Budget and Finance Officer determines that the  
3 bill will not result in net additional costs if the bill is enacted, he  
4 shall certify that determination, on a statement signed by him  
5 and filed in his office. If he determines that the bill may result  
6 in net additional costs if enacted, he shall immediately forward  
7 notice to the sponsor and the chairman of the committee, if any,  
8 to which the bill was referred, or to the presiding officer of the  
9 House in which the bill originated if no such reference was made,  
10 that, in his judgment, a local impact statement is required. The  
11 Legislative Budget and Finance Officer shall also immediately  
12 forward a notice to the Office of Local Mandates that such a bill  
13 has been introduced and that a local impact statement is required.

14 b. Upon receipt of a notice from the Legislative Budget and  
15 Finance Officer that a bill has been introduced in either the  
16 Senate or General Assembly that may result in net additional  
17 costs, the office shall complete as soon as possible, but within 30  
18 days of notification, a local impact statement containing the  
19 most accurate estimate possible, in dollars, of the net additional  
20 costs, if any, that will be required of a county or municipality to  
21 perform or administer the new or expanded service. Local  
22 impact statements completed pursuant to this subsection shall be  
23 forthwith delivered to the Governor, the Speaker of the General  
24 Assembly, the President of the Senate and the Chairmen of the  
25 Assembly Appropriations Committee and the Senate Revenue,  
26 Finance and Appropriations Committee, or its successors.

27 c. Whenever any State administrative or executive rule,  
28 regulation or order is proposed or adopted, the State department  
29 head or State officer issuing the rule, regulation or order, and the  
30 Secretary of State, Director of the Office of Administrative Law,  
31 or the Governor, as may be the custodian of the rule, regulation  
32 or order, shall forthwith forward a copy of the proposed or  
33 adopted rule, regulation or order to the Office of Local Mandates  
34 with a notice to complete a local impact statement within 30  
35 days of the proposal or adoption.

36 d. Upon receipt of a notice from the Secretary of State, the  
37 Director of the Office of Administrative Law, a State  
38 department head, a State Officer or the Governor of the proposal  
39 or adoption of an administrative or executive rule, regulation or  
40 order by that official, the office shall complete, within 30 days  
41 after receipt of the notice, a local impact statement containing  
42 the most accurate estimate possible, in dollars, of the net  
43 additional costs, if any, that will be required of a county or  
44 municipality to perform or administer any new or expanded  
45 program or service as may be provided in the proposed or adopted  
46 rule, regulation or order. Local impact statements completed  
47 pursuant to this subsection shall be forthwith delivered to the  
48 officer proposing or adopting the rule, regulation or order and

1 shall also be so delivered to the Governor, the Speaker of the  
2 General Assembly, President of the Senate and the chairmen of  
3 the Assembly Appropriations Committee and the Senate Revenue,  
4 Finance and Appropriations Committee, or its successors, with a  
5 copy of the rule, regulation or order.

6 e. The office shall conduct an annual review of all pending  
7 legislative bills, and laws, rules, regulations and orders enacted or  
8 adopted after the effective date of this act, for which the office  
9 has previously completed a local impact statement. Any annual  
10 change in the dollar estimate of the net additional costs from  
11 that provided in the original local impact statement shall be  
12 updated as a result of that review to disclose that change, and  
13 the updated local impact statement shall be delivered to the  
14 recipients of the original local impact statement.

15 7. A bill for which a local impact statement is required to be  
16 prepared shall not proceed from second to third reading in the  
17 House of origin until the completed local impact statement is  
18 received by the presiding officer of that House. The presiding  
19 officer shall cause notice of the receipt of each local impact  
20 statement to be entered on the journal of that House.

21 8. Except as otherwise provided in subsection d. of section 4 of  
22 this act, a bill for which a local impact statement has been  
23 received pursuant to section 7 shall not receive passage in either  
24 House unless it contains therein an appropriation at least equal in  
25 amount to the amount estimated in the local impact statement as  
26 being necessary to pay in full any net additional cost of  
27 compliance therewith.

28 9. There is established the Local Government Mandates  
29 Appeals Board. The membership of the board shall consist of 11  
30 voting members as follows: two to be appointed from the  
31 membership of the Senate by the President thereof; two to be  
32 appointed from the membership of the General Assembly by the  
33 Speaker thereof; two elected county officials to be appointed by  
34 the Governor; two elected municipal officials to be appointed by  
35 the Governor; the State Treasurer, ex officio, or the designee  
36 thereof; the Commissioner of the Department of Community  
37 Affairs, ex officio, or the designee thereof; and the Director of  
38 the Division of Local Government Services in the Department of  
39 Community Affairs, ex officio, or the designee thereof. Within  
40 each category of appointed members, the appointees shall be of  
41 different political parties. The legislator members shall serve  
42 during the two-year legislative session in which the appointment  
43 is made. The elected county and municipal officials shall serve  
44 as members during the terms of their elected office during which  
45 their appointments are made. The Governor, the President of the  
46 Senate and the Speaker of the General Assembly shall, in making  
47 their appointments, consult with one another to the extent  
48 necessary to ensure that among the appointed membership,

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1 there is not more than one member appointed as an elected local  
2 official or legislator representing the same local units of  
3 government within their election districts.

4 A vacancy occurring in the membership of the board for any  
5 cause, other than the expiration of a term of office, shall be  
6 filled in the same manner as the original appointment.

7 For the purpose of complying with the provisions of Article V,  
8 Section IV, paragraph 1 of the New Jersey Constitution, the  
9 Local Government Mandates Appeals Board is allocated within  
10 the Department of the Treasury, but notwithstanding that  
11 allocation, the board shall be independent of any supervision or  
12 control by the department or any board or officer thereof.

13 10. The board shall organize as soon as practicable following  
14 the appointment of all of its members and shall elect from among  
15 its members a chairman and vice-chairman and shall appoint a  
16 secretary who need not be a member of the board. The board  
17 shall employ such assistants as it may deem necessary to carry  
18 out its duties and shall determine their qualifications, terms of  
19 office, duties and compensation without regard to the provisions  
20 of Title 11A of the New Jersey Statutes. All expenditures  
21 deemed necessary to implement and effectuate the duties of the  
22 board under this act shall be made within the limits of available  
23 appropriations according to law.

24 11. Members of the board shall not receive compensation for  
25 their services except that they shall be reimbursed for expenses  
26 such as travel, communication and clerical expenses, as  
27 determined by the secretary of the board with the approval of the  
28 Director of the Division of Budget and Accounting in the  
29 Department of the Treasury.

30 12. The board, through its chairman or secretary, may issue  
31 subpoenas and compel the attendance of witnesses to testify  
32 before the board and produce relevant books, records and papers  
33 before it and may administer oaths in taking testimony in any  
34 matter pertaining to its duties under this act including, without  
35 limitation, any appeals proceeding authorized or required to be  
36 held by the board under this act. Subpoenas shall be issued under  
37 the seal of the board and shall be served in the same manner as  
38 subpoenas issued out of Superior Court.

39 13. The powers of the board are vested in the members thereof  
40 in office from time to time, and a majority of its members shall  
41 constitute a quorum for any act thereof. Actions may be taken  
42 and orders adopted by the board by a vote of a majority of its  
43 authorized members, unless the rules of the board shall require a  
44 larger number. No vacancy in the membership of the board shall  
45 impair the right of a quorum to exercise all the rights and  
46 perform all the duties of the board.

47 14. It shall be the duty of the board to hear and rule upon  
48 appeals brought by one or more counties or municipalities.

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1 alleging that a State law, rule, regulation or order, which has the  
2 effect of requiring the performance or administration by the  
3 appellant of a new or expanded program or service:

4 a. has been enacted or promulgated, as the case may be, in a  
5 manner contrary to the provisions of this act; or

6 b. has been lawfully enacted or promulgated but has been  
7 based on a demonstrably inaccurate cost estimate contained in a  
8 local impact statement prepared by the Office of Local  
9 Mandates; resulting, therefore, in the failure by the State to  
10 provide sufficient funding to pay the net additional cost of  
11 compliance with the law, rule, regulation or order.

12 A party appearing before the board or otherwise joined in an  
13 action before the board shall submit such evidence and  
14 documentation as the board may require in order to make a  
15 determination under this section.

16 Should the board, based on the evidence before it, rule in favor  
17 of the appellant county or municipality, or counties or  
18 municipalities, it shall transmit its findings and ruling to the  
19 Governor, the President of the Senate and the Speaker of the  
20 General Assembly, along with its determination that legislation is  
21 required to be enacted containing an appropriation of monies  
22 sufficient to pay for any net additional cost it has determined to  
23 be remaining unfunded. Pending the appropriation of such  
24 monies, the board shall declare the contested law, rule,  
25 regulation or order inoperative upon all counties and  
26 municipalities determined by the board to be similarly affected  
27 by the application of the law, rule, regulation or order.

28 A determination by the board pursuant to this section that an  
29 appropriation of monies is required or that a law, rule, regulation  
30 or order is inoperative, or both, shall be appealable by the  
31 Legislature, or the presiding officer of either House thereof, to  
32 the Appellate Division of the Superior Court. A determination by  
33 the board denying an appeal by a county or municipality shall be  
34 final and not reviewable in any court.

35 15. The board shall adopt, in accordance with the provisions of  
36 the Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1  
37 et seq.) such rules as may be required to carry out its functions  
38 and responsibilities under this act.

39 16. This act shall take effect upon the adoption of the  
40 amendment to the New Jersey Constitution proposed by Assembly  
41 Concurrent Resolution No. 97 of 1988.

#### 42 43 44 STATEMENT

45  
46 The purpose of this bill is to implement the provisions of  
47 Assembly Concurrent Resolution No. 97 of 1988, which proposes  
48 an amendment to the New Jersey Constitution to prohibit the

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1 State government from requiring a county or municipality to  
2 perform a new or expanded program or service without providing  
3 full State funding for the costs of compliance with the  
4 requirement.

5 The bill, known as the "State Payment for State Mandates  
6 Act," would apply to State laws, rules, regulations and orders  
7 that have the effect of requiring a county or municipality to  
8 perform or administer a new or expanded program or service  
9 having a net additional cost of more than \$1,000 for any  
10 individual local government or more than \$100,000 for all  
11 affected local governments. Any such State mandate would have  
12 to be accompanied by an appropriation of funds to pay for its  
13 implementation at the county and municipal level. For a bill  
14 proposing a law, the initial appropriation would be contained in  
15 the bill itself. In the case of a rule, regulation or order, funding  
16 would be provided in the annual appropriation act or in a  
17 supplement to that act during the fiscal year.

18 With the exceptions noted below, any law, rule, regulation or  
19 order that is not fully funded would be inoperative upon any  
20 county or municipality affected by its application.

21 A law imposing a performance requirement upon local  
22 governments could be operative even without the provision of full  
23 funding if it were enacted following passage in the Legislature by  
24 a two-thirds majority vote in each House. In addition, the  
25 following types of local programs or services would not be  
26 covered by the bill:

- 27 1. those required by or arising from a court order or judgement;
- 28 2. those provided at local option under permissive State laws,  
29 rules, regulations or orders;
- 30 3. those required by private, special or local laws pursuant to  
31 Article IV, Section VII, paragraphs 8 and 10 of the State  
32 Constitution; and
- 33 4. those required by or arising from an executive order of the  
34 Governor in exercising emergency powers granted to him by law.

35 The bill establishes an Office of Local Mandates in the  
36 Department of Community Affairs, whose function it is to  
37 provide local impact statements on proposed legislation and  
38 administrative and executive promulgations. No legislative bill  
39 for which a local impact statement is prepared can proceed to  
40 third reading in the House of origin until the statement is  
41 received and acknowledged.

42 The bill also establishes an independent 11-member Local  
43 Government Mandates Appeals Board, to which one or more  
44 counties or municipalities may appeal that (a) a law, rule,  
45 regulation or order imposing a performance requirement has been  
46 enacted or issued contrary to the provisions of this bill, or (b) a  
47 lawful enactment or promulgation nonetheless contains  
48 insufficient funding because it was based upon an inaccurate cost

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1 estimate. In the event that the appeals board rules in favor of  
2 the appellant county or municipality, the board is directed to  
3 notify the Governor and the presiding officers of the Legislature  
4 that an appropriation is required to provide any differential  
5 funding not previously provided, and to declare the law, rule,  
6 regulation or order inoperative pending the appropriation of  
7 sufficient funding. The Legislature may appeal determinations of  
8 the board to the Superior Court.

9 This bill would become effective upon the date of adoption of  
10 Assembly Concurrent Resolution No. 97.

11

12

13

#### STATE GOVERNMENT

14

15 The "State Payment for State Mandates Act;" requires full State  
16 funding of programs and services imposed upon counties and  
17 municipalities to perform.

10x





# New Jersey School Boards Association

Headquarters: 413 West State Street, P.O. Box 909, Trenton, New Jersey 08605  
Telephone (609) 695-7600 Fax 609-695-0413

## POSITION STATEMENT

### ACR-2 (Franks)

### STATE MANDATE/STATE PAY

ACR-2 would require state government to pay for the cost of any new or expanded programs or services that it mandates upon counties and municipalities. The New Jersey School Boards Association seeks an amendment to this legislation to give this proposal some real teeth by including school districts.

School districts in this state find themselves in an untenable position. On the one hand, they are showered with demands and obligations imposed by outside forces; on the other hand, they are in a constant state of anxiety as a result of a state funding system which becomes more unstable every year. The state figures are down, they are up, they are slashed and skimmed; rational planning has become impossible. But the mandates keep coming, hundreds of them from the legislature and the state board. The mandated programs are forcing out numerous locally initiated programs because we do not have the resources to implement them all.

Since ACR-2's introduction, the sponsor has repeatedly rejected NJSBA's request to include school districts in the proposal. He said he believes school district costs are a separate issue and that he would support separate legislation for school districts at a later date. Municipalities and counties are two separate entities and yet are lumped together in ACR-2. The reality is that unless school districts are included in this very bill, no separate state mandate/state pay bill for schools will make it through this legislation session. The media attention is here with this bill, the energy is here with this bill, not any future promised bill.

The sponsor has stated grandly and with some conviction that "if the legislature believes a new program is necessary to protect the health, safety, and welfare of our state and its citizens, we should be willing to find resources to fund it." He has also said "the legislature

-over-

January 11, 1993

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would no longer be able to force local officials to take the heat for rising property taxes to pay for new state mandates." The truth is that children are also citizens of the state and their health and safety is compromised when the implementation of a thoughtful state mandate is delayed because the local district funds are not there. The sponsor's comments should apply to school children as well.

Current legislative proposals involving testing for clean air and the remediation of lead in drinking water are only two examples of where the tab for municipal and county remedial efforts would be picked up by the state. But unless ACR-2 is amended, school district costs for these same initiatives would be either passed on to local property taxpayers or diverted from the district's educational programming efforts.

If we were to look at this in a coldly political way, ACR-2 would offer only slight relief to local officials for rising property taxes, since 75 percent of any municipality's tax load is school expense related. Please note too that we are not asking for the funding of past mandates, just prospective ones. Still this would be a tremendous help. ACR-2 now conflicts with S-525, sponsored by Senator Randy Corman (R-Sayreville). While ACR-2 addresses municipal and county costs of implementing legislation, the Senate bill addresses municipal, county, and school board costs of complying with rules and regulations, i.e. code, of state agencies. But, in fact, state rules and regulations usually clarify and guide the implementation of legislation.

In conclusion, school districts in this state are besieged with demands and obligations imposed by the legislature and State Board of Education and other public agencies, perhaps two to three times as many as municipalities and counties combined. As recent media reports indicate, local districts are coming to grips with escalating salary costs; settlements have shown a real percentage decline over the past two years and continue to do so. In addition, caps imposed by QEA II have intensified local budget scrutiny. It is therefore only logical that the state and its lawmakers recognize their responsibility to fund their mandates. It is not only logical, it is also a matter of equity.

**NJSBA URGES YOU TO AMEND ACR-2 TO INCLUDE SCHOOL DISTRICTS AS WELL AS MUNICIPALITIES AND COUNTIES.**

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BERGEN COUNTY LEAGUE OF MUNICIPALITIES

Testimony of  
Ridgewood Councilwoman Roberta Svarre  
Legislative Chairwoman, Bergen County League of Municipalities

NJ Senate Judiciary Committee  
Hearing on ACR2 - State Mandate/State Pay  
February 23, 1993

I want to thank Chairman Gormley and the members of the Judiciary Committee for the opportunity to testify today.

State Mandate-State Pay is the priority issue for the 58 member communities of the Bergen County League of Municipalities. We have, and will continue to use, every avenue to lobby the Legislature for relief from the overregulation that so limits our ability to govern in what we believe to be the best interests of our taxpayers.

As elected officials, it is our responsibility to honestly and fairly represent that constituency. We are among the fortunate. Bergen County is relatively wealthy by State and National standards. Yet we face the same problems as communities throughout the country. The recession has had a severe impact on our taxpayers and on their ability to support government spending even at current levels.

The following examples are from my own community of Ridgewood, but they are typical of the problems facing all of our communities.

1991 Assessment Appeals:

	<u>Appeals</u>	<u>Assessment</u>	<u>Reduction</u>
Class 2 - Residential homes	104	\$32,227,900	\$ 941,700
Class 2 - Residential condos	84	19,435,000	303,000
Class 4 - Commercial (13) Apartments ( 7)	<u>20</u>	<u>42,265,500</u>	<u>497,500</u>
Totals	208	\$94,038,400	\$1,742,500

1992 Assessment Appeals:

Class 2 - Residential homes	289	\$90,484,000	N/A
Class 4 - Commercial	<u>12</u>	<u>17,506,900</u>	N/A
Totals	301	\$107,990,900	

13x

We have no figures on Reductions for 1992. The County just heard the appeals two weeks ago and has not sent judgements yet. However, as you can see, there are 93 more appeals for 1992 than 1991.

Though we at the local level cannot solve problems affecting the national and State economies, we are forced to bear the burden of decisions made at those levels.

Government at all levels has only one funding source - the taxpaying resident or business. That taxpayer has a right to know what he or she is paying for, who requires them to pay for it and why.

#### STATE MANDATE-STATE PAY

The State Legislature frequently passes laws that diminish the autonomy of local governments and results in increased costs to local taxpayers.

Some of the more obvious areas of impact are:

#### Environmental Regulations:

The Ridgewood government is committed to providing a safe and clean environment for the residents of our community. We are proud of our State's leadership in this area. However, environmental regulation must be tied to provable need. Environmental laws and regulations are imposing increasing burdens on municipal budgets and the taxpayers as well as increasing the costs of doing business in New Jersey. These costs are often imposed within the overall taxes and thus lose their public impact as environmental costs.

#### Water:

The Ridgewood Water Utility operates a 60 well system providing water to the surrounding communities of Glen Rock, Midland Park and Wyckoff. The utility is required to spend approximately \$20 million to meet new State and Federal requirements.

The approximate additional costs of complying with N.J. Department of Environmental Protection and Energy (NJDEPE) Volatile Organic Contaminants (VOCs) regulations instead of the United States Environmental Protection Agency (USEPA) regulations is approximately \$3,700,000. The data presented in the Safe Drinking Water Act Impact Analysis shows that six of thirteen facilities proposed for treatment would not have to be constructed. These six facilities exceed the NJDEPE maximum contaminant levels (MCL) for VOCs, however they do not exceed the USEPA MCL. The NJDEPE level is set at one part per million (PPM) versus the USEPA level of five parts per million (PPM).

If the USEPA regulation was to govern, six of the facilities to be constructed in Phase I and II would not have to be done, at a savings to the Village of \$6,700,000.

Should the RADON MCL be set at 1000 pico curies per liter (pCi/L) instead of the 300 pCi/L being considered by the USEPA at present, almost all (if not all) of the radon treatment facilities would not be required. This could result in further savings of six to eight million dollars.

The proposed disinfection regulations for corrosion control and lead and copper could also be less stringent and save the Village significant sums of money in the future.

#### Graydon Pool:

Graydon Pool is a sand bottom "pool" or pond that is utilized as a recreational bathing facility during the summer months. The facility is located next to the Ho-Ho-Kus Brook and in the early part of this century was basically a pond that was filled by the brook. In the 1920s or 30s, the pond was upgraded to a bathing facility and pumping equipment was added to increase the depth in the pool by supplementing the natural groundwater table elevation of the water in the pool. In the 40s or 50s, the pumping of water directly from the Brook was determined by the State to not be an acceptable practice. This, the Village drilled a groundwater supply well to feed the pool and converted the other pumping equipment into an irrigation well for the Municipal fields. In the 1970s, the State intervened again and stated that this irrigation was not acceptable. The Village now irrigates from the municipal water supply system. The well constantly feeds the pool to maintain fresh water in the pool.

In recent months, the DEPE has advised Ridgewood that the discharge of water from the pool into the brook will require a discharge permit and that the concentration of chlorine that is discharged is also a concern that will have to be addressed. Ironically, the chlorine is added to the pool at the direction of the DEPE for water quality purposes.

These concerns are causing the Village to spend \$12,000 to conduct a study that may lead to the expenditure of several hundred thousand dollars to rectify the situation.

#### Wastewater:

Ridgewood's wastewater program is affected by impractical environmental requirements and inappropriate procedural requirements which will have very high costs with very little benefit to the environment.

It currently costs Ridgewood \$1,800,000 a year to handle and treat its wastewater. Ridgewood was among the first communities in Bergen County to provide appropriate sewers and treatment facilities. As a result, we have paid off the capital costs of the system.

Under an Administrative Court Order NJDEPE is requiring Ridgewood to improve its treatment. However, NJDEP has not determined the extent of treatment needed to meet the current regulations. Rather, NJDEPE has indicated that Ridgewood should adopt a piecemeal approach, meeting new levels of regulation as they are developed.

Under current regulations and NJDEPE procedures, Ridgewood will need to spend \$16,500,000 and perhaps up to \$39,000,000 to meet existing "water quality criteria". This would result in Ridgewood's costs increasing to \$3,200,000 a year, up to \$5,500,000 a year, and more. Added requirements will further increase the costs by an undetermined amount. This uncertainty severely limits the Village's ability for sound fiscal planning.

Current provisions of the NJ Clean Water Act require mandatory fines for violations within the purview of the statute, whereas Federal EPA statutes allow discretion based on particular circumstances of an incident. Furthermore, NJDEPE requires records be maintained for five years, whereas Federal EPA only requires three years of retention for similar records. Both of these examples impose additional costs and administrative burdens on New Jersey municipalities which aren't required of those operating under Federal EPA standards.

Other Examples:

1: Bergen County constructed the Saddle River Park in Glen Rock. This park includes a "lake" which is fed only by storm water pipes. This park, with the "lake", gives pleasure and enjoyment to many and is heavily used.

NJDEPE evaluated this as a natural water body and classified this "lake" as "Threatened Pending Further Information". Such mistaken evaluation leads to unnecessary costs for programs for "environmental improvements".

A practical approach would recognize that this is not a natural lake and will never be one. It should not be included in the NJDEPE's program.

2: NJDEPE has determined that the Saddle River does not meet the objective of being "swimmable". This is based on the number of bacteria in the river exceeding water quality criteria.

No consideration is given to the many ducks and geese attracted to the Glen Rock park and other parks. The waste from these birds contain the bacteria. There are other similar sources of the bacteria in the river.

Using the bacteria data, NJDEPE determines a need for additional control of man's input to meet the established "water quality criteria". This leads to unnecessary costs, none of which will achieve the "water quality criteria".

Construction Project Reserve: The State law (P.L. 1979, Ch. 464) calls for reduction of reserves from 10% to 2% after a project has passed the \$100,000 mark. This law favors contractors and limits the municipality's ability to get jobs done to their satisfaction. Too many companies are willing to walk away from the 2% retained without making necessary corrections.

Reserve for Uncollected Taxes:

The Local Budget Law provides that municipality reserve for taxes expected not to be collected in the current year for the total tax levy which includes amounts to be raised for County and School purposes.

A more accurate reflection of the costs which comprise each of the individual pieces of the tax rate would require each of those units to share in the reserve for uncollected tax appropriation. The preliminary 1992 appropriation increases the municipal budget by \$1,752,419.86 by using a 97% collection rate. The actual amount related to the Village tax levy is only \$475,100.50, the balance of the appropriation or \$1,277,319.36 is comprised of the reserve for the County and School levy. A breakdown of the total appropriation and the portion attributable to each Governmental entity is as follows:

Local	\$ 475,100.50
School	1,063,134.72
County	<u>214,184.64</u>
Total	\$ 1,752,419.86

By having to appropriate the additional \$1,277,319.36 as part of the Local Budget, we are required to tax as the local share 8.2% higher than we would if this appropriation were shared. The following summary shows what tax rates are under the existing law and what they would be if the law were changed to share the appropriation.

	<u>Existing Tax Rate</u>	<u>Revised Tax Rate</u>	<u>Change</u>
Local	.610	.560	(.050)
School	1.365	1.407	.042
County	<u>.275</u>	<u>.283</u>	<u>.008</u>
	2.25	2.25	0

As you can see, the local share is approximately 8.2% higher due to the current law. The legislative remedy to correct this inequity would have to address Title 40A, the Local Budget Law, and Title 18A, the law governing boards of education.

There would also have to be a way devised to share the surpluses or deficits realized when the actual collection rate is experienced. Currently the entire surplus or deficit is realized by the municipality. This could be accomplished in the succeeding budget year by either adding or subtracting from the total amount to be levied for school and county purposes, and the municipality only realizing their shares effect on operations.

#### INTEREST ARBITRATION:

The process of interest arbitration was originally designed to compensate for the police and fire unions' inability to strike. However, the process has been abused to the point where it is now the single most identifiable cause of disproportionate growth in our municipal budget.

Arbitrators with few exceptions give short shrift to a municipality's ability to pay, and, instead, give 99% of weight to "comparability", which they define as the percentage increases given to other municipal police and fire units in the respective county, regardless of differences in size, and the expense involved.

It is difficult to understand why arbitrators fail to credit the public employer's position, based upon their expertise in municipal finance and affairs, their familiarity with the facts pertinent to their communities, etc. Elected officials and their paid management operate in the best interest of their communities and citizens. The "final offers" in interest arbitrations put forth the consensus of all factors, which include other services provided by the municipality, mandated expenses and increases in mandated costs.

Police and Fire units increases have totaled 50 to 100% over CPI increases for the period 1980 to 1990, far more over the years than other municipal employees, resulting in budgets that are distorted.



Municipal services no longer reflect the wishes of taxpayers because control over the budget no longer resides in their elected officials.

Current procedures favor litigation and arbitration because unions have nothing to lose. The process dictates that the public employer come up with its best offer, which, in most instances, is more than it has offered to its other employees and more than its ability to pay would dictate.

The following information comes from the New Jersey State League of Municipalities and gives average annual Police salary increases in selected Bergen County Municipalities from 1981 to 1991.

Police Chief	10.3%
Captain	10.9%
Lieutenant	10.6%
Sergeant	10.6%
Patrolman	19.7%

Last December, the officers of the Bergen County Sheriff's and Correction Departments were awarded an increase of 25.5% over three years at a cost to the taxpayers of \$8 Million.

Ridgewood Police vs. CPI  
1980-1990

YEAR	POLICE OFFICER	POLICE SERG.	POLICE LIEUT.	POLICE CAPTAIN	POLICE CHIEF
% GAIN-1990 OVER 1980	111.8	120.5	128.5	137.4	127.0
% GAIN-1991 OVER 1980		138.7	147.4	152.7	141.8
CPI (US) 1980 TO 1990	58.7	58.7	58.7	58.7	58.7
CPI (NY) 1980 TO 1990	61.9	61.9	61.9	61.9	61.9
NET GAIN OVER CPI (US) 1990	53.1	61.8	69.8	78.7	68.3
NET GAIN OVER CPI (NY) 1990	49.9	58.6	66.6	75.5	65.1

POLICE CHIEF'S BILL:

P.L. 1991, Ch. 176 passed by the Legislature last year requires the Police Chief's and Deputy Police Chief's salaries be established, and subsequently maintain, at no less than 5% above the highest rank within the department. We urge the Legislature to take any actions available to them to repeal this legislation in the best interest of communities throughout the State.

This effectively removes the Police Chief from participation in labor relations and collective bargaining due to the potential conflict of interest situation which has been created by this Legislation. We have always actively involved the Department Director, as it should be, in negotiation of collective bargaining contracts and in other matters related to salary and benefits for the Department. The Chief of Police participates with the Manager and labor counsel in the meetings and in formulating the strategy. However, under the provisions of this Bill, the potential situation has been created where the judgment of the Chief in recommending parameters of a salary settlement could be influenced by the index provision, or equally as detrimental, where a good faith recommendation by the Chief of Police could be questioned by the public on a conflict of interest basis -- the salary increase given via the bargaining process would automatically apply to the Chief. The appearance, in this case, could be as detrimental as any reality.

Also, by the provisions of this Bill, the Chief of Police has been effectively removed from a major component of the management system of the Village. Under our Managerial Employees Compensation Program, we have evaluated Division Directors, of which the Chief of Police has always been considered to be included, according to a sliding scale whereby particular performance "above and beyond" the norm is rewarded with greater salary than is the norm for collective bargaining unit employees. This provides both incentive and a management tool for assuring maximum performance by the Chief of Police and for so rewarding excellence in discharge of his duties. However, pursuant to the recently passed legislation, this program has been nullified with respect to the Chief of Police and the division director overseeing one of the largest cost centers in the Village is now excluded from the process.

Salary determination is one of the few ways in which the performance of a Police Chief can be influenced by the Council and Manager. In a Civil Service environment the opportunity for constructive criticism and discipline are largely reduced to major items, and the ability of the elected governing body to affect this critical area of public policy rests to a large degree in the area of compensation. This legislation erodes the ability of the Council to assure that Police are responsive to the public that pays them.

For the reasons stated above, we think this legislation is bad public policy and detrimental to the delivery of police services within the community. It is contrary to the efforts that we have been making to provide better accountability of service delivery and public safety services within the community. We urge your support of a repeal of this legislation at the earliest possible date.

Similar problems for municipalities are engendered by acts of the State Court system.

Court Costs:

1. The Drug Reform Act -- This act has created additional bookkeeping, break down of penalties, additional monthly reports, and court appearances for non-compliance -- for which the municipality receives no compensation. Drug Enforcement Reduction Fund (DEDR) \$500.00 -- Forensic Lab Fee \$50.00 -- Violent Crime Compensations Board (VCCB) raised to \$50.00.

2. Hearings for motion to suppress in warrantless searches, previously heard in Superior Court are now added to the municipal court calendars.

3. Violent Crime Compensation has been increased to \$50.00, adding an additional division to be compensated. The allocation of funds went from one division to two divisions in 1986, and three divisions as of December of 1991. This has increased paper work, bookkeeping, and the tracking of unpaid penalties and mandated court appearances for non-payment. We also have additional reports due to DWI now being charged the VCCB penalty.

4. Parking offenses, especially here in Ridgewood, have increased the work load because of leased cars. Leased cars are registered to the lessor not the lessee, therefore extra paper work is involved when a lessee does not pay the parking summons: notification to the lessor in order to ascertain the lessee name and address and continue to follow regular procedure. This does generate revenue, but it is time consuming and involves considerable paper work.

5. Due to the requirements stated above, the monthly reports we are required to file with the State have increased from three reports to ten reports per month within the last few years.

Since 1989, the weekly case load has increased from approximately 60 to 90 cases on the Traffic Calendar and it is not unusual to list more than 100 cases on that calendar. Criminal cases have increased from approximately 40 to 60 cases per session. The reasons for these increases are many, including the increased jurisdiction of the Municipal Court to include search and seizure cases; the new Domestic Violence Act requiring the issuance of

criminal complaints; and the fact that many citizens are now pleading not guilty to offenses for which they would have paid fines in the past, but now see increased penalties and unknown costs of insurance surcharges. The increases in fines alone, many up to \$1,000, have drastically increased the need to collect these fines under Partial Payment Agreements which are mandated by law. All of the above requires additional paperwork, as well as telephone and follow-up time for the Municipal Court staff.

SUMMARY

We urge your support for the following measures which would considerably alleviate the burden of State mandates on local governments:

1. Passage of State Mandate-State Pay legislation (ACR-2) amended as follows:

Section 5. Paragraph 2

There may be enacted, in accordance with the provisions of Article V, Section I, paragraph 14 of this Constitution, a law of full operation and effect requiring the governing body of a county or municipality to perform a new or expanded program or service, but without the provision of State funding otherwise required by this paragraph only upon approval of a majority of eligible voters at the next general election, or upon declaration of a state of emergency by the Governor

2. Repeal of Police Chief's Bill (P.L. 1991, Ch. 176)
3. Revision of Compulsory Arbitration laws:
  - a) Awards should be limited to the State mandated cap on Municipal budgets. (Passage of A836, attached)
  - b) The mediation component should be strengthened.
4. Changes in Title 40:, Local Budget and Title 18A, governing Boards of Education, for a reserve for uncollected taxes to be divided among municipal and county school budgets in direct proportion to taxes raised. (N.J.S.A. 40A:4-40)
5. Allow municipalities to maintain a 10-15% retainage on all contracts, as is the practice in the private sector.
6. Maintain environmental standards at federal levels.

23X

ASSEMBLY, No. 836  
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1992

By Assemblymen PASCRELL and KAMIN

1 AN ACT concerning arbitration for public fire and police  
2 departments and amending P.L.1977, c.85.

3  
4 BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

6 1. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to  
7 read as follows:

8 3. a. Whenever negotiations between a public fire or police  
9 department and an exclusive representative concerning the terms  
10 and conditions of employment shall reach an impasse, the  
11 commission, through the Division of Public Employment Relations  
12 shall, upon the request of either party, or upon its own motion  
13 take such steps including the assignment of a mediator as it may  
14 deem expedient to effect a voluntary resolution of the impasse.  
15 The cost of mediation shall be borne by the commission.

16 b. In the event of a failure to resolve the impasse by  
17 mediation, the Division of Public Employment Relations, at the  
18 request of either party, shall invoke factfinding with  
19 recommendation for settlement of all issues in dispute unless the  
20 parties reach a voluntary settlement prior to the issuance of the  
21 [factfinders] factfinder's report and recommended terms of  
22 settlement. Factfindings shall be limited to those issues that are  
23 within the required scope of negotiations unless the parties to the  
24 factfinding agree to factfinding on permissive subjects of  
25 negotiation. The cost of factfinding shall be borne by the  
26 commission. In the event of a continuing failure to resolve an  
27 impasse by means of the procedure set forth above, and  
28 notwithstanding the fact that such procedures have not been  
29 exhausted, the parties shall notify the commission 60 days prior  
30 to the required budget submission date of the public employer as  
31 to whether or not they have agreed upon a terminal procedure for  
32 resolving the issues in dispute. Any terminal procedure mutually  
33 agreed upon by the parties shall be reduced to writing, provide  
34 for finality in resolving the issues in dispute, and shall be  
35 submitted to the commission for approval.

36 c. Terminal procedures that are approvable include, but shall  
37 not be limited to the following:

38 (1) Conventional arbitration of all unsettled items.

39 (2) Arbitration under which the award by an arbitrator or panel  
40 of arbitrators is confined to a choice between (a) the last offer of  
41 the employer and (b) the last offer of the employees'  
42 representative, as a single package.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) Arbitration under which the award is confined to a choice  
2 between (a) the last offer of the employer and (b) the last offer  
3 of the employees' representative, on each issue in dispute, with  
4 the decision on an issue-by-issue basis.

5 (4) If there is a factfinder's report with recommendations on  
6 the issues in dispute, the parties may agree to arbitration under  
7 which the award would be confined to a choice among three  
8 positions: (a) the last offer of the employer as a single package,  
9 (b) the last offer of the employees' representative as a single  
10 package, or (c) the factfinder's recommendations as a single  
11 package.

12 (5) If there is a factfinder's report with a recommendation on  
13 each of the issues in dispute, the parties may agree to arbitration  
14 under which the award would be confined to a choice on each  
15 issue from among three positions: (a) the last offer of the  
16 employer on the issue, (b) the employee representative's last  
17 offer on the issue, or (c) the factfinder's recommendation on the  
18 issue.

19 (6) Arbitration under which the award on the economic issues  
20 in dispute is confined to a choice between (a) the last offer of the  
21 employer on the economic issues as a single package and (b) the  
22 employee representative's last offer on the economic issues as a  
23 single package; and, on any noneconomic issues in dispute, the  
24 award is confined to a choice between (a) the last offer of the  
25 employer on each issue in dispute and (b) the employee  
26 representative's last offer on that issue.

27 d. The following procedure shall be utilized if parties fail to  
28 agree on a terminal procedure for the settlement of an impasse  
29 dispute:

30 (1) In the event of a failure of the parties to agree upon an  
31 acceptable terminal procedure 50 days prior to the public  
32 employer's budget-submission date, no later than the aforesaid  
33 time the parties shall separately so notify the commission in  
34 writing, indicating all issues in dispute and the reasons for their  
35 inability to agree on the procedure. The substance of a written  
36 notification shall not provide the basis for any delay in  
37 effectuating the provisions of this subsection.

38 (2) Upon receipt of such notification from either party or on  
39 the commission's own motion, the procedure to provide finality  
40 for the resolution of issues in dispute shall be binding arbitration  
41 under which the award on the economic issues in dispute shall be  
42 confined to a choice between: (a) the last offer of the employer  
43 on such issues as a single package and (b) the employee  
44 representative's last offer, on such issues, as a single package;  
45 and, on the noneconomic issues in dispute, the award shall be  
46 confined to a choice between: (a) the last offer of the employer  
47 on each issue in dispute and (b) the employee representative's  
48 last offer on such issue.

49 e. (1) The commission shall take measures to assure the  
50 selection of an arbitrator or arbitrators from its special panel of  
51 arbitrators. Appointment of an arbitrator to the commission's  
52 special panel shall be for a [3-year] three-year term, with  
53 reappointment contingent upon a screening process similar to  
54 that used for determining initial appointments.

1       (2) No arbitrator shall provide arbitration services pursuant to  
2 the provisions of this section unless the arbitrator has experience  
3 in municipal finance or management in an amount and of a  
4 quality deemed appropriate by the commission. The commission  
5 shall provide municipal finance or management training for  
6 arbitrators as the commission deems necessary for the purposes  
7 of this section. Only the commission, and not any party to a  
8 dispute, shall select the arbitrator or panel of arbitrators for the  
9 purpose of arbitrating a dispute.

10       f. (1) Prior to the arbitration proceedings, the parties shall  
11 submit to the arbitrator or tripartite panel of arbitrators,  
12 pursuant to rules and procedures established by the commission,  
13 their final offers in two separate parts: (a) a single package  
14 containing all the economic issues in dispute and (b) the individual  
15 issues in dispute not included in the economic package, each set  
16 forth separately by issue.

17       (2) In the event of a dispute, the commission shall have the  
18 power to decide which issues are economic issues. Economic  
19 issues include those items which have a direct relation to  
20 employee income including wages, salaries, hours in relation to  
21 earnings, and other forms of compensation such as paid vacation,  
22 paid holidays, health and medical insurance, and other economic  
23 benefits to employees.

24       (3) Throughout formal arbitration proceedings the chosen  
25 arbitrator or panel of arbitrators may mediate or assist the  
26 parties in reaching a mutually agreeable settlement.

27       (4) Arbitration shall be limited to those subjects that are  
28 within the required scope of collective negotiations, except that  
29 the parties may agree to submit to arbitration one or more  
30 permissive subjects of negotiation.

31       (5) The decision of an arbitrator or panel of arbitrators shall  
32 include an opinion and an award, which shall be final and binding  
33 upon the parties and shall be irreversible, except where there is  
34 submitted to the court extrinsic evidence upon which the court  
35 may vacate, modify or correct such award pursuant to  
36 N.J.S.2A:24-7 et seq. or for failure to apply the factors specified  
37 in subsection g. below.

38       (6) The parties shall bear the costs of arbitration subject to a  
39 fee schedule approved by the commission.

40       g. [The] Except as provided in subsection i. of this section, the  
41 arbitrator or panel of arbitrators shall decide the dispute based  
42 on a reasonable determination of the issues, giving due weight to  
43 those factors listed below that are judged relevant for the  
44 resolution of the specific dispute:

45       (1) The interests and welfare of the public.

46       (2) Comparison of the wages, salaries, hours, and conditions of  
47 employment of the employees involved in the arbitration  
48 proceedings with the wages, hours, and conditions of employment  
49 of other employees performing the same or similar services and  
50 with other employees generally:

51       (a) In public employment in the same or similar comparable  
52 jurisdictions.

53       (b) In comparable private employment.

54       (c) In public and private employment in general.



1 (3) The overall compensation presently received by the  
2 employees, inclusive of direct wages, salary, vacations, holidays,  
3 excused leaves, insurance and pensions, medical and  
4 hospitalization benefits, and all other economic benefits received.

5 (4) Stipulations of the parties.

6 (5) The lawful authority of the employer.

7 (6) The financial impact on the governing unit, its residents  
8 and taxpayers, including the need or desirability of tax relief for  
9 those taxpayers.

10 (7) The cost of living.

11 (8) The continuity and stability of employment including  
12 seniority rights and such other factors not confined to the  
13 foregoing which are ordinarily or traditionally considered in the  
14 determination of wages, hours, and conditions of employment  
15 through collective negotiations and collective bargaining between  
16 the parties in the public service and in private employment.

17 h. A mediator, factfinder, or arbitrator while functioning in a  
18 mediatory capacity shall not be required to disclose any files,  
19 records, reports, documents, or other papers classified as  
20 confidential received or prepared by him or to testify with regard  
21 to mediation, conducted by him under this act on behalf of any  
22 party to any cause pending in any type of proceeding under this  
23 act. Nothing contained herein shall exempt such an individual  
24 from disclosing information relating to the commission of a crime.

25 i. When deciding a dispute pursuant to subsection g. of this  
26 section, the arbitrator or panel of arbitrators:

27 (1) Shall in no case consider any factor which compares the  
28 overall compensation, including the cost of wages and benefits,  
29 offered by the municipality with that offered by any other  
30 employer, unless the arbitrator or panel of arbitrators first  
31 determines, by the preponderance of the evidence, that the  
32 municipality has the financial capacity to fund a settlement  
33 which is based on a comparison of the overall compensation  
34 offered by the municipality with that offered by any other  
35 employer;

36 (2) Shall, if the arbitrator or panel of arbitrators consider any  
37 factor which compares the overall compensation offered by the  
38 municipality with that offered by any other employer, only make  
39 comparisons with municipalities which the arbitrator or panel  
40 find to be similar to the municipality which is involved in the  
41 dispute with respect to fiscal status, per capita income, overall  
42 compensation levels, including the cost of wages and benefits,  
43 and any other factor the arbitrator or panel deems relevant; and

44 (3) Shall not, in the case of a municipality which is defined as  
45 an eligible municipality pursuant to section 3 of P.L.1987, c.75  
46 (C.52:27D-118.26), consider any factor which compares the  
47 overall compensation, including the costs of any wages and  
48 benefits, offered by the municipality with that offered by any  
49 other employer;

50 No award made by an arbitrator or panel of arbitrators shall  
51 include an annual percentage increase in the overall rate of  
52 compensation, including the cost of all wages and benefits, which  
53 exceeds the percentage increase permitted for the municipality's  
54 budget in accordance with the budget cap established for the

1 municipality pursuant to P.L.1976, c.68 (C.40A:4-45.1 et seq.).  
2 (cf: P.L.1977, c.85, s.3)

3 2. This act shall take effect immediately.  
4

5  
6 STATEMENT

7  
8 This bill amends P.L.1977, c.85 to modify that law's  
9 procedures regarding compulsory arbitration of labor disputes in  
10 public fire and police departments. The bill provides that under  
11 such arbitration, the arbitrator or panel of arbitrators:

12 1. Shall in no case consider any factor which compares the  
13 overall compensation offered by the municipality with that  
14 offered by any other employer, unless they first determine that  
15 the municipality has the financial capacity to fund a settlement  
16 which is based on such a comparison;

17 2. Shall, if the arbitrator or panel of arbitrators do consider  
18 any factor which compares the overall compensation offered by  
19 the municipality with that offered by any other employer, make  
20 comparisons only with municipalities which are similar to the  
21 municipality involved in the dispute with respect to fiscal status,  
22 per capita income, overall compensation levels, including the cost  
23 of wages and benefits, and any other relevant factor; and

24 (3) Shall not, in the case of a municipality which is defined as  
25 a municipality eligible for certain specified municipal aid,  
26 consider any factor which compares the overall compensation  
27 offered by the municipality with that offered by any other  
28 employer.

29 The bill prohibits an arbitrator or panel of arbitrators from  
30 making an award which includes an annual percentage increase in  
31 the overall rate of compensation which exceeds the percentage  
32 increase permitted for the municipality's budget in accordance  
33 with the budget cap established for the municipality pursuant to  
34 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

35 The bill requires that each of the arbitrators have experience  
36 in municipal finance or management in an amount and of a  
37 quality deemed appropriate by the Public Employee Relations  
38 Commission. The commission is also required to provide  
39 municipal finance or management training for arbitrators as the  
40 commission deems necessary for the purposes of this bill. Only  
41 the commission, and not any party to a dispute, is permitted to  
42 select the arbitrator or panel of arbitrators which decides a  
43 dispute.  
44

45  
46  
47  
48 Modifies arbitration for public fire and police departments.

TREASURY DEPARTMENT  
TESTIMONY BEFORE THE ASSEMBLY STATE GOVERNMENT COMMITTEE  
MANDATED STATE SERVICES  
April 25, 1988

The proposed constitutional amendment to prohibit the state from requiring county or municipal government to perform new or expanded programs or services without full state funding at first glance sounds like a responsible fiscal measure.

This proposal has some very serious implications, however, which must be thoroughly considered by the Legislature before such a policy is pursued.

For purposes of discussion, there are two separate issues I would like to address on behalf of the Treasury Department. First is the vehicle proposed to achieve the restriction on state spending, that of the constitutional amendment.

Then I would like to address what the Treasury believes are some very serious and unanticipated complications of the proposed policy.

A constitutional amendment as the proposed vehicle to achieve restricted state spending is opposed by Treasury. Our research indicates that only four states have used a constitutional amendment for this purpose, of the fourteen that have acted in the area of state mandates.

Of the four using the constitutional amendment, only one has been able to achieve the enviable position of having a triple A bond rating, while two of the fourteen have achieved the same triple A rating now enjoyed by New Jersey.

Any feature of law which restricts the flexibility needed by the executive and legislative branches to respond swiftly and decisively to unforeseen needs, economic downturns, and emergency situations must necessarily be regarded as potentially undermining the State's strong credit rating. Over a long period of time, the accumulation of laws and regulations -- some State pay, some not -- will create an incredible net of complications in putting together the budget, in establishing financial priorities, in deciding what must go unfunded in a budget crisis, in establishing the constitutional legality of programs which someone argues are not funded. All of these problems will, inevitably, make it more difficult for the State to maintain its strong credit position.

While the proposed amendment allows for a mandate to be passed without state funding, provided there is a two-thirds majority in each house, we believe it would be unreasonable to assume such bi-partisan action by the legislature would be achieved in times of financial crisis.

We also believe that the cumulative financial implications of this proposal are not known. The proposed amendment is not retroactive, yet there are bills pending to provide the assumption by the state of a host of existing services including trial courts, public welfare, institutions for the mentally retarded, county prosecutor's offices, county colleges, public education and solid waste collection and disposal. Some of these programs might be considered "State" programs, but others are simply financial relief for local responsibilities. Estimates of the cost of these proposals range from \$500 million to \$1 billion, and they would be in addition to any "new or expanded services" required by the state.

Beyond that there are requests from our municipalities for a substantial increase in state aid for distressed cities, for more police and fire assistance, increased aid for garbage collection, homeless prevention and other programs, with a price tag of several hundred million more dollars.

Until the legislature addressed the many bills currently pending to achieve the takeovers and program expansions, bills which could total well beyond \$1 billion in new expenditures by the state, we cannot assess the financial implications of a state mandated bill.

In addition to the significant financial concerns, we believe the proposed bill raises many issues which could easily result in a quagmire of administrative, legal, and budgetary complications which could straight-jacket both municipal and state government.

For instance, no one has the data necessary to catalog existing programs and services. Such a baseline would be critical to establishing whether something is an expanded program or service.

There are significant definitional issues: Do new mandates include state administrative or executive orders, agency rules and regulations, interpretations by the Administrative Law or other courts? Are new federal laws, rules and regulations or court initiatives which are passed through the state to county and municipal governments to be included?

There are significant budgeting problems raised by the need to establish the initial and the continuing cost of mandates: How is the financial cost of expanded mandates to be calculated? There are certain to be situations in which some level of service is in existence at the local level. Would a formula be used for cost sharing in such cases? Is the state liable for direct costs or all indirect costs as well?

Even more important, how are the costs of new or expanded service or programs to be determined and who will make the determination? If the county or local government disagree with the cost estimate, what is the appeal and resolution process? How will this be fit into the State budget process, which plans budgets? This is not a simple matter. Just as we grow increasingly concerned about the so-called "nondiscretionary", uncontrolled costs of government, we risk creating a whole new class of such costs if the budget process does not impose significant review and challenge on such items. Unfortunately, we believe it will lead to costly but necessary administrative work a full year before enactment?

The mechanism for state reimbursement has not been established including a process for applications for reimbursement by local government and the timetable for making reimbursements. What would happen in the event the action by the state results in less cost at the local level or an assumption of costs by the state? No provisions are made for capturing savings.

Once a program becomes a state mandate, it would be necessary to establish a periodic review to determine if it should be continued from year to year. Restricted growth should include an annual review of the policies and programs of the state to assure they continue to be a policy priority worthy of continued funding.

When assessing the long-term financial impact of proposed state actions, will the financial analysis and estimates of the executive or legislative branch be the basis for determining costs, and in turn dictating the inclusion of such costs in the budget?

~~Since~~ the mandate amendment virtually binds the state to the ongoing payments of the mandated costs, what happens during the course of the year if the cost estimates are too low? Will this result in automatic supplemental appropriations?

If all revenues have been appropriated, or not enough remain to cover the increased cost of the mandate, where would the additional revenue be raised?

If the State must pay for each mandate it will necessarily have to monitor management and administration of state mandated programs, and hold the local jurisdiction accountable for providing the most cost effective and efficient programs and service possible. Local accountability for the proper administration and management of programs is essential.

Beyond this, there are occasions when it may be necessary for the state to take over the administration of local programs in the event they are not being properly addressed at the local level.

The State will have to impose incentives for local programs to undertake cost effective improvements. Without it, this proposal would reward the least efficient programs as they will automatically get increased state aid regardless of the effectiveness of their management system and personnel.

The legal complications of the proposed mandate are troublesome. In several of the states with mandate legislation new laws have been adopted by the legislatures but implementation blocked in the courts by the local governments as they appeal the determination of the cost or fairness of the cost sharing proposed by the state.

These comments represent some of the concerns of Treasury over the proposed constitutional amendment. Until the takeovers now being considered are approved or rejected, and the municipal aid crisis is resolved, there are too many uncertainties regarding the ability of the state to pursue mandated legislation.

In addition, the term "state mandate" must be defined and future legislatures bound to the definition.

Tying State municipal aid to separate, potentially minute, State mandates, will, we believe, eventually create an administrative nightmare which will cause the State to intrude into the operations of local government in ways we believe inappropriate -- yet necessary -- to protect the State budget from uncontrolled costs. It will cast legal uncertainties over programs every time there is a disagreement over whether a program (perhaps created years before) is underfunded.

We believe that the adjustment Between State and local financial positions should not be at the micro level, but should be addressed by examining the big-ticket areas for which State support could provide significant relief -- or by achieving general reform through general financial reform. The SLERP has proposed a package of changes which together provide significant adjustments in financial burden. While that report is controversial -- the controversy surrounding it underscores the need to identify funding sources for all new programs and assumptions of responsibility.

And until the tax reforms being proposed by the State and Local Revenue and Expenditure Policy Commission are considered and debated it will not be known if the state has the resources to accommodate a significant increase in state expenditures.

31X

We strongly recommend that no action be taken on state mandate legislation until the many economic and budgetary uncertainties facing the State of New Jersey are addressed and resolved. When such time comes and consideration of mandate legislation proceeds we urge the constitutional amendment vehicle not be used, and that careful consideration be given to the various technical problems I have attempted to identify.

Thank you for the opportunity to present the views of Treasury to the Assembly State Government Committee.

James P. Putnam  
Assistant State Treasurer

32X



## City of Absecon

NEW JERSEY 08201

PETER C. ELCO  
MAYOR

February 22, 1993.

William Dressel Jr.,  
Asst. Executive Director,  
N. J. State League of Municipalities,  
407 West State Street,  
Trenton, N. J. 08618.

Dear Bill:

RE: State Mandate - State Pay.

The City of Absecon respectfully wishes that the Senate Judiciary Committee recognize the need to continue the movement of Bill ACR 2. The said Bill recognizes a long term commitment of local municipalities to have our state legislators realize a dramatic need for change. It is the governing body's of Absecon's hope that a just and wise decision will be made regarding this important Bill's future.

Because of these difficult economic times, an era where formal revenues are scarce and investments at a premium, it is imperative now more than ever to take a stand for the futures of your representative municipalities.

Thank you for your time and urgent consideration.

Peter C. Elco,  
Mayor  
City of Absecon.

33x

TO: BILL DRESSEL JR.  
FROM: PETER C. ELCO, MAYOR

I have enclosed a copy of additional work sheets made up by the City of Absecon for your perusal if needed to be used as specifics.

34 X



*City of Absecon*

Some estimated costs on unfunded mandates

1. State wequirement to have assessors send out First Class notices of assessed values and appeal dates, 1,600.00
2. Peosha requirements for inventories, training, Right to Know Law 3,000.00
3. Underground Tank registration fees 200.00
4. Solid Waste Transportation Registration 960.00
5. Ground water testing old Landfill Closed approximately 20 Years. 3,000.00
6. Peosha 3 Hepititis Shots, Fire ,Police Emerg Management 30,700.00
7. 911 Approximate cost 35 to 40,000.00
8. Prosecutor & Public Defender 15,000.00
9. Firearm Shotgun Qualifications 40 Hrs OT + 1,400.00

35x

## STATE MANDATED COSTS

911

Included by not limited to the total operating costs to be attributed to E911 operations. This includes the costs for preparation of new municipal maps, the overtime hours need to do the renumbering, and the hiring of additional dispatchers.

## TAX ASSESSORS

Recently all Tax Assessors in the State had to mail out to every taxpayer a separate notice of their assessment and the methodology of appealing their tax assessment - per Assembly Bill A4425. Absolutely a waste of time and a waste of taxpayer money, yet the cost was mandated and it was within CAP.

## TAX COLLECTORS

Notices required by the governors office to be made part of the tax notices sent to taxpayers. Excess costs for printing.

## D.E.P.E

D.E.P.E mandates for OSEA and PEOSEA and Well testing procedures. "Right to Know" classes and training for employees based upon legislation created by those living way far from here. Arbitrary increases in landfill inspection costs to cover increased department costs. No real services were provided to the municipality.

36X

**FIREARMS QUALIFICATIONS**

Range firing requirements by police personnel. The State mandates two required firings; the County mandates two additional firings. Costs for firing plus salaries of the police personnel involved should be out of CAP.

**ARBITRATORS AWARDS**

First of all, Arbitrators awards should not be mandatory. Second, arbitrator awards should not be permitted to go beyond the CAP level. Third, if there is an arbitrator award, the award should be outside of CAP.

**PLANNING AND ZONING**

Costs to re-do master plans and resulting costs to upgrade the implementing ordinances.

**FINANCE**

Costs to maintain certification for the CMFO license  
Costs to establish fixed asset and depreciation accounting  
Costs to mail out tax verifications  
Costs of the municipal audit

**CONSTRUCTION CODE**

Costs to tie into the statewide computer for uniform construction code reporting

**PROSECUTOR AND PUBLIC DEFENDER**

Municipalities are required to have same  
Costs attributed to discovery mandated by the AG

**DEPARTMENT OF COMMUNITY AFFAIRS**

Making obsolete firegear and air tanks as quickly as new equipment is made available for sale on the market. It would appear that the manufacturers are setting the standards, profit being their guide.

Mandatory hose and ladder testing fire the fire service

Placing construction code operations in an "untouchable" category. Their fees are totally dedicated with the exception of some administrative costs. It is hoped this theory does not spill over into other municipal departments.

37X

In the event the Construction Code Official has to condemn unsafe residential property, the residents of that structure have to be "put up" at municipal expense, although the cause of the problem is not directly related to municipal operations

#### ATTORNEY GENERALS STATE WIDE ACTION PLAN

##### Narcotics Enforcement

- Drug free school zones and signage
- Police to patrol school areas
- Uniformed police at major school sporting events

##### Prosecutors Narcotic Strike Force

- Each police agency to support the nsf
- Assign one officer to the nsf

#### Executive Order Concerning Juvenile Matters

##### Training

- Firearms requalifications
- Domestic violence incidents
- Bias incident investigation standards
- Civil disturbance
- Mutual aid
- Right to know

#### UNCONTROLLABLE COSTS

The primary culprits in this area are excessive insurance costs, excessive health benefit costs, pension contributions, and utility costs. None of these are controllable at a municipal level except by directly reducing personnel or turning off street lights. These costs are imposed by State Board actions, then passed through to the municipalities. The cost increases over and above a base year, say the beginning of CAP legislation, should be excluded from CAP.

38X



OFFICE OF THE MAYOR  
**THE CITY OF NEW BRUNSWICK**  
CITY HALL • 78 BAYARD STREET • NEW BRUNSWICK, NJ 08903

JAMES M. CAHILL  
MAYOR  
(908) 745-5004  
TELEFAX (908) 214-1941  
(908) 745-5017 (TT)

**TESTIMONY OF MAYOR JIM CAHILL**  
**CITY OF NEW BRUNSWICK**  
**FEBRUARY 23, 1993**

Good Morning.

Mr. Chairman, we are very pleased that you have selected our City for this Hearing on this subject in this budget year. As you and your committee have obviously recognized, this building is being renovated to comply with the Americans With Disabilities Act, and as Mayor, I apologize for what may appear be a less than welcome ambiance for you. As the familiar sign says, "The inconvenience is temporary, but the improvement will be permanent."

I might point out that these renovations -- and the Ameri-

39X

cans With Disabilities Act that prompted them -- result from a Federal - not State - mandate that is costing the taxpayers of this City some \$500,000.00. It happens to be a case of "Federal Mandate - No Pay" but the lesson is similar to the issue we are discussing today.

As you know Mr. Chairman, my predecessor in my office was a predecessor of your's as Chairman of this Committee and has often participated in the age-old debate regarding State Mandate-State Pay.

Frankly, I am surprised that so many years have passed with this issue in and out of the headlines without resolution. It is difficult to imagine that any local government official would oppose the idea of the State Government sending along the bucks to pay for the programs that same government mandates to us. I applaud the fact that these Hearings are being held, and I hope

that means the Senate will soon approve the measure for the ballot.

Just as you in State Government would not enact a program you couldn't pay for, this question, if approved by the voters, as I am certain it would be, would forbid you to mandate a program to us that we can't pay for without stinging our property taxpayers.

Just as you and others in State Government hassle the Congress for mandating programs to you without the dollars to pay the bill, I know you know we do the same thing to you. State Mandate - State Pay is the great solution.

I'm aware that several other states have enacted the State Mandate-State Pay principle either statutorily or constitutionally and that some say it just plain doesn't work. But if you give it a chance in New Jersey, there will be at least 567 active

lobbyists helping you to make it work. That's the number of Mayors in our State who have been anxiously awaiting it in New Jersey and who will camp on your doorstep to help you to make it work for us.

Again, thank you for visiting our City, thank you for these Hearings, and please, put the question on the ballot to let the people decide.

Thank you.

\*\*\*\*\*





# City of Clifton

OFFICE OF THE CITY MANAGER  
900 CLIFTON AVENUE  
CLIFTON, NEW JERSEY 07013

ROGER L. KEMP  
CITY MANAGER

(201) 470-5854

February 19, 1993

Mr. William Dressel, Jr.  
Assistant Executive Director  
NJ State League of Municipalities  
407 West State Street  
Trenton, NJ 08618

Re: Examples of State Mandates Without Reimbursement

Dear Bill:

I enjoyed talking with you recently about State mandates upon local governments without proper (or any) reimbursement. In order to assist the League in its legislative efforts to change this, the following information is provided.

- (1) Listing of Major Programs and Services - Clifton's municipal departments perform some 295 programs. About 45% of all of our services are required by the State (i.e., 130 out of 295 programs). State reimbursement for these mandates are minimal.
- (2) Examples of Municipal Programs/State Mandated Without Reimbursement - In brief discussions with two department heads, six programs were identified that are mandated by the State with little, or no, reimbursement.

If you have any questions about any of this material, or would like any additional information, please don't hesitate to contact me.

I'm happy to be of assistance to the League in this important municipal matter.

Sincerely,

Roger L. Kemp  
City Manager

RLK:dh

Encls.

43 X

CITY OF CLIFTON  
Major Programs and Services  
By Department

Department	Federal	Mandated By: <u>State</u>	Court	Local
Assessor	-0-	8	-0-	2
Building	-0-	3	1	5
City Clerk	-0-	6	-0-	5
City Manager	3	7	2	7
Engineering	-0-	6	-0-	17
Finance	6	17	-0-	1
Fire	-0-	8	-0-	4
Health	1	24	-0-	11
Housing	15	1	-0-	17
Legal	-0-	9	-0-	3
Municipal Court	-0-	14	-0-	9
Police	-0-	19	-0-	16
Public Works	-0-	8	-0-	16
Recreation	1	-0-	-0-	23
Total/Level of Government	26	<u>130</u>	3	136

44X

Examples of Municipal Programs  
- State Mandated Without Reimbursement -

Below are several examples of municipal programs mandated on local governments by the State without reimbursement.

(1) Firearm Qualifications - State law requires that all Police Officers qualify with their weapons four (4) times each year. This mandate costs the City of Clifton about \$50,000 per year in ammunition expenses.

(2) Pursuit Driving Training - A new State law requires all sworn personnel to receive one (1) day of training in pursuit driving each year. The City has about 140 sworn personnel. This mandate results in about 140 days of lost productivity annually since police personnel are taken away from their regular jobs for this training program.

(3) HAZMAT/Emergency Planning - Recent State laws require certain reporting requirements in this field. The City has added one staff person (i.e., a HAZMAT Coordinator) to perform this work at a cost of about \$36,000 annually. Additionally, staff time is also used by personnel in the Police, Building, Fire, and Health Departments to help comply with these requirements. This results in lost productivity since these employees are taken away from their regular job duties to perform HAZMAT/emergency planning work.

(4) Right-to-Know Mandate - The State requires that many items used in local government have disclosure labels, inventory reporting forms, and a database developed, without reimbursement. It also mandates that all new employees be trained in the Right-to-Know disclosure requirements. Compliance has resulted in virtually hundreds of staff hours, and annual training expenses cost about \$6,500.

(5) Minimum Standards/Public Health - The State mandates some 22 health-related programs upon municipalities. The city is reimbursed about \$25,000 annual from the State for these programs. 18 full-time professional, technical, and clerical personnel are involved in complying with these mandates. State funds only cover a small portion of the cost of complying with these mandates.

(6) Welfare Staffing Levels - The State's Division of Welfare mandates minimum staffing levels for municipal welfare programs. This administrative mandate requires Clifton to have the equivalent of three (3) full-time personnel perform this function (i.e., a Welfare Director, Income Maintenance Worker, and a clerical person). Staffing levels for municipal programs should be left to the discretion of locally elected officials.

