The background features several large, abstract red geometric shapes. On the left, a vertical shape with a halftone dot pattern is partially visible. A large, irregular red shape with a halftone pattern extends from the top left towards the center. In the bottom right, a large red shape with a halftone pattern is visible. The overall design is minimalist and modern.

# THE IMPACT OF MANDATES ON COUNTIES: THE NEED TO BALANCE STATE AND LOCAL SERVICE ROLES IN NEW JERSEY



STATE OF NEW JERSEY  
COUNTY AND MUNICIPAL GOVERNMENT  
STUDY COMMISSION

## **REPORTS OF THE COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION**

- Creative Localism – A Prospectus, 1968 (Out of Print)
- County Government – Challenge and Change, 1969
- Joint Services – A Local Response to Area-Wide Problems, 1970  
– A Practical Guide to Reaching Joint Services Agreements, 1971  
(In cooperation with the N.J. Department of Community Affairs)
- Beyond Local Resources: Federal/State Aid & the Local Fiscal Crisis, 1971
- Consolidation: Prospects and Problems, 1972
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- Flood Control Management: An Overview of Issues and Responses, Nov., 1977
- Computer Utilization by Local Government, Nov., 1977 (Out of Print)
- Local Highway and Road Programs: The Capacity of Federal and State Aid Programs to Meet Increasing Needs, Sept., 1978
- Forms of Municipal Government in New Jersey, Jan., 1979  
(In cooperation with the Bureau of Government Research, Rutgers University)
- The Organization and Dynamics of Social Services in New Jersey, June, 1979
- The Development of Libraries and Networks, June, 1980
- The Impact of Mandates on Counties, June 1981
- Other Publications:
- New Jersey Riparian Rights Handbook, 1979 (revised May, 1980)
  - Handbook of Legal References for the Optional County Law, 1981
  - Handbook for County Charter Study Commissioners, Nov. 1973
  - Semi-Annual Survey of Municipal Law
  - County Law News (semi annual)
- Annual Report: Issues for the 80's; The Impact of Mandates; Municipal Caps (Feb. 1981)



State of New Jersey

**COUNTY & MUNICIPAL GOVERNMENT  
STUDY COMMISSION**

**THE IMPACT OF MANDATES  
ON COUNTIES :**  
**THE NEED TO BALANCE  
STATE AND LOCAL  
SERVICE ROLES  
IN NEW JERSEY**

**TWENTIETH REPORT  
JUNE 1981**

**COUNTY AND MUNICIPAL GOVERNMENT  
STUDY COMMISSION**

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*Freeholder Doris Dealaman, Vice-Chairwoman*

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TO HIS EXCELLENCY GOVERNOR BRENDAN T. BYRNE, AND HONORABLE MEMBERS OF THE SENATE AND GENERAL ASSEMBLY:

The County and Municipal Government Study Commission is pleased to present its 20th report "The Impact of Mandates on Counties: The Need to Balance State and Local Service Roles in New Jersey".

The extent of State mandates has always been an issue for county government limiting as they do the counties' discretionary power to provide local services to their citizens. But State mandating has taken on added significance in light of recent changes in New Jersey's fiscal conditions. Spending 'caps' and the rising costs of public services affect all levels of government in the State, but mandated functions are often protected by statute or court order from the usual consequence of fiscal constraints -- cutbacks, deferrals, or elimination of services. The implication of this progressive encroachment by mandates on local, non-mandated services, are discussed in this report and recommendations for change are presented in the final chapter.

Impending cuts in federal programs are certain to complicate the fiscal outlook for county government in general. Resolution of the mandate/local service issue may well be the catalyst for broader changes in the role of counties within the intergovernmental structure in New Jersey. We urge your consideration and action on the Commission's report.

The Commission wishes to thank the following individuals and organizations who participated in our deliberations and contributed to the study: the Legislative Committee of the New Jersey Association of Counties; the New Jersey Association of County Administrators and Managers, particularly Messrs. John T. McHugh, George J. Albanese, Fred J. Rossi and Guy E. Millard; and finally the many County Treasurers and Controllers who provided the financial data supporting this study.

Respectfully submitted by the members of the County and Municipal Government Study Commission:

/s/ William V. Musto, Chairman

/s/ Doris Dealaman, Vice Chairwoman

/s/ Garrett W. Hagedorn

/s/ Joseph A. Maressa

/s/ Leanna R. Brown

/s/ Robert P. Hollenbeck

/s/ Christopher J. Jackman

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/s/ John E. Trafford

/s/ Robert F. Casey

/s/ Benjamin R. Fitzgerald

/s/ Stephen B. Richer

/s/ Samuel A. Alito, Secretary

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## CHAPTER 1 EXPLORING THE ISSUE OF MANDATES

Mandates have always been a fact of life to county government in New Jersey. Since colonial times, counties have been maintained to act on behalf of a higher governmental authority. Today, in light of the Home Rule provisions in the New Jersey Constitution, a county's powers are only those granted to it and do not embrace a guardianship of the public right to prevent other agencies of government from exceeding their powers\* -- in other words, counties are simply creatures of the State and function primarily to serve the will of the State in providing services to its citizens. Now, more than ever, counties are the basic regional arm of the State for implementing its policies on a local level.

What then is the issue concerning state mandates that has prompted the attention of state and local elected officials, tax policy commissions and others during the past decade? The answer to this leading question must begin by placing mandates in a broader context of government in the United States. Mandates are simply a legal expression - a signal of a more fundamental relationship among all levels of government in this country. Federal, state and local, (that is, county and municipal governments) are linked by the concept of federalism - a system of constitutional interpretations, judicial decisions, legislative enactments and executive initiatives that define the relative roles and responsibilities among the various levels and types of governments in American society.

Federalism is a dynamic process - that is to say it represents a tension between efforts to gather decision-making authority at the higher levels of governments and opposing efforts to shift responsibilities downward to state and sub-state governments - a tension between centralization and decentralization. It is a slowly swinging pendulum that peaked at the centralized level during the 1960's - a time of socially-oriented categorical programs focused toward Washington. The 1970's began a gradual shift downward - toward greater state and substate discretion in the funding and provision of services as evidenced by the General Revenue Sharing and C. E. T. A. programs. Today, there is an increasing consensus for even more fiscal latitude at the state level - a recognition that accountability can be improved and efficiency promoted if decisions are made, and services are managed, closer to the people themselves.

### **The New Jersey Experience**

The mandate issue in New Jersey is reflected in the federalism question of direction - should there be more or less State involvement in local government

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\*See N.J.S.A. 40:18-1 and *Bergen County v. Port of N.Y. Authority, et al.*, 32 N.J. 313 (1960).

affairs? In 1968, the Commission's report, **County Government: Challenge and Change**, reviewed the limited legal status of counties to that point.\* The report found that the 18th century conception of counties as having a narrow functional role with little power has still not changed - the principle has simply been extended to numerous functional areas. Most of the functions performed by counties continue to be expressions of the general administration of State policy. Counties were created in order to implement State dictates without regard to local wishes and to serve solely as bodies politic. At present there are more than 100 county functions and offices defined in statute. In other words, the role or shape of counties has - by definition of the county per se -- been determined by law. Without express authority counties can neither be *told* to act nor act *voluntarily* on their own collective behalf.

**Hence the mandate issue facing counties, in its conceptual form, is really a question of where to draw the line between State dictate and county discretion within the overall statutory basis of counties.** It is really a two-part conceptual question, namely: (1) should counties have or be granted a discretionary role in the provision of public services - as a logical extension of federalism on a local basis; and (2) which statutory responsibilities and assignments to counties are State dictates or mandates and which laws, if any, provide for a volitional or discretionary role for elected county officials?

Boards of Freeholders and County Executives have drawn the line as a matter of necessary political survival - in deciding that there is a definite need for local autonomy in the provision of services. **The determination as to which services are local or discretionary in nature has been a matter of both custom and the degree to which elected county officials are able to create agencies and appoint their governing boards.** As listed in the following table, 6 general categories of local control over county service functions can be identified.

These categories are ranked, top to bottom, from the highest (one) to the lowest (six) degree of local elected official control over the various statutory functions. Clearly, the optional service areas reflected in the first and second categories of Table 1 (see Table 1 located on page 3) are the sources of the discretionary power recognized by elected county officials.

However, it is essential to note that these areas of proprietary interest - services under county control on behalf of their residents - have occurred largely as a matter of custom. Essentially, they have developed out of the remainder of resources and services after the State dictates, i. e., mandates have been fulfilled. **County officials have seized upon and developed these discretionary service areas as circumstances have allowed -- thus defining for themselves the issue: whether or not discretionary locally-oriented county services are important enough to seek**

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\*See **County Government: Challenge and Change**, Chapter II, 1969.

a rough parity with mandation. In other words, should an equitable balance be made between the local and mandated roles of counties?

**TABLE 1**

**Basic Statutory Categories of Local Control**

- (1) Functions created by and under the control of the Board of Freeholders or the County Executive.
- (2) Functions created by referendum under permissive legislation with boards appointed by the Board of Chosen Freeholders or the County Executive.
- (3) Authorities created subject to permissive legislation with boards appointed by the Board of Chosen Freeholders or the County Executive.
- (4) Functions created expressly by statute with boards appointed by the Board of Chosen Freeholders or with departments controlled by the County Executive.
- (5) Functions created expressly by statute or the state constitution with boards or agency heads appointed by the Governor or the Judiciary.
- (6) Functions created by the state constitution headed by independently elected officers.

**Promoting Counties as a Middle Level of Government**

The Commission addressed this basic issue of the service role of counties in New Jersey from its very inception as a legislative study organization. Indeed, the statutory directive of the Commission states, in part, that its mission includes the "study of the structure and functions of county and municipal government so as to determine...the present and future needs of the State and its political sub-

divisions." In its very first report, **Creative Localism: A Prospectus (1968)** the Commission faced head-on the question of the role of counties and their relationship to both municipal and state governments. On the basis of this report, the Commission established that the *presence* of locally-oriented county functions, without any real encouragement was evidence of the potential of counties as providers of local services.

Based upon its research, the Commission envisioned counties both as an alternative to the costly fragmentation of local services at the municipal level and as a convenient middle level of government that could maintain local home rule over regionalized service functions. At the time, this projection of a new or re-shaped role for counties served as a rationale to strengthen both the *existing provision* of local services by counties and the county capacity to assume additional service roles. In short, the Commission stood squarely upfront as an advocate for a stronger and revitalized county form of government - between the police power functions apportioned to the State and its municipalities by the New Jersey State Constitution and the Home Rule Act of 1917.\*

Starting with **County Government: Challenge and Change (1969)**, the Commission has worked for over 12 years to help establish counties as a strong middle level of government of New Jersey - first by proposing optional structural reform of county government and later suggesting a continuing series of service-strengthening mechanisms. Over the years, these proposals have met with considerable legislative success as well as voter approval as listed in the following table:

<b>TABLE 2</b>		
<b>Statutory Enactments Strengthening the Counties' Local Service Role</b>		
	<b>Year</b>	<b>Citation — N.J.S.A.</b>
Optional County Charter Law	1972	40:41A — 1 et seq.
Interlocal Services Act	1973	40:8A — 1 et seq.
Solid Waste Management Act	1975	13:1E — 1 et seq.
Local Health Services Act	1976	26:3A — 1 et seq.
County Environmental Health Act	1977	26:3A2 — 21 et seq.
Water Quality Planning Act	1977	58:11A — 1 et seq.
County Flood Control Financing Act	1978	40:23 — 34 et seq.
Flood Control and Transportation Bonds	1979	P. L. 1979, c.78
Local Grants		and c.165

At this time, the Commission is in the process of proposing additional interlocal service responsibilities for counties in the areas of social services (S-3158) and

\*See Monograph, **Home Rule, and Proceedings of Constitutional Convention of 1947**, pp. 1729, 1743 and Laws of 1917, c. 152.

libraries (S-3006 to 3010).

Yet throughout the past 12 years, **both the Commission and the New Jersey Legislature have operated upon nothing more than a premise - that counties have had a local service role all along and therefore it makes sense to strengthen this role.** It is an assumption that is conveniently shared by elected county officials - namely, that counties should have a discretionary role in the provision of public services. **However, the basic question has never been decided upon in the process of developing the locally-oriented service capacities\* of counties -- should counties be granted by law an independent proprietary interest in the provision of services to county residents?** In short, should the traditional *state* role of counties be made to *co-exist* with the emerging *local* county service role. A decision on this issue has never been made because it has never *had* to be made. In the past -- especially during much of the last dozen years when a good deal of the promotion and growth of the local county service role has taken place -- there has been enough resources, financial and otherwise, to support a modicum of growth in locally-oriented county services after the requirements of the State mandates have been met. Today, this financial cushion -- for a variety of reasons-- no longer exists.

### **Confronting the Issue: Mandation versus County Discretion**

Mandates are a tangible expression of the State's exercise of its constitutional authority. They are what local county service functions are not -- service requirements that *must* be performed by law. Counties essentially remain what they were originally established to do -- act as vehicles to implement the will of the State. Until the past few years, the issue of mandation versus county discretion did not have to be faced - sufficient latitude in financial capacity existed in most counties to fund whatever optional, local services were desired by elected officials.

However, in 1977 the local government expenditure law\*\* -- the so-called 'cap' law was enacted by the New Jersey Legislature as part of the Tax Reform Program of 1976. **The cap law as it applies to counties is the antithesis of state mandation upon counties.** On the one hand, counties are now limited in the total level of budgetary appropriations allowable by law -- whereas state mandates must be provided whatever funding they require regardless of the budget cap. This fiscal contradiction has been compounded by the high rate of inflation as reflected in the cost of personnel and material. The financial cushion that existed in earlier years no longer can be found -- taxes cannot be raised, state and federal aid sources are on the decline and surpluses have been depleted. As a result, there is not enough total county revenues to maintain *both* mandated and discretionary services. Since the mandated functions are the primary legal basis for the existence of counties per se, they must be funded regardless of the consequences to the

\*See Chapter 2, Considering the Local Service Component of Counties.

\*\*See N. J. S. A. 40A: 4-45.1 et seq.

remainder of the budget or other services.

In response to this situation -- the erosion of local service capacity -- counties have relied upon the premise of a discretionary role discussed earlier. **Counties have argued that the State, through the combined effect of mandation and the budget cap, is imposing an inequity on counties.** In other words, the State is imposing the responsibility of funding its mandates upon counties at the expense of cutting back on locally-oriented county services. **However, to date the counties have built their case around a distinction allowed by custom and more prosperous times -- that two classes of service are being performed by counties, i. e., mandates and local services.** This assumption -- shared by elected county officials, made part of the Commission's proposals for a middle level of government, ratified by the New Jersey Legislature through a series of optional county service statutes and nurtured in the days without tax limitations -- has never been expressed in law. There is no guarantee to county government officials that they are fiduciaries of a defined and independent public trust regarding a select group or category of service functions. **Unless counties are provided with a statutory grant of this nature it can only be a matter of time before the mandated roles -- by their very definition -- make it impossible to maintain locally-oriented services at the county level.**

The second chapter of this report presents the findings of the Commission's research concerning both the burden of mandates and the impact of mandates on the provision of local county services. In the concluding chapter, the Commission proposes a series of initial steps to address the basic issue of establishing a legitimate local role for counties that cannot be overridden by mandation. These recommendations are offered in light of a firm conviction, first expressed by the Commission in **Creative Localism**, that the continued support for counties expressed by the New Jersey Legislature - throughout the 1970's and at present -- is evidence of a shared stake in efficient public services close to the people, in counties as regional and interlocal service providers, and above all, in the future of local government in New Jersey.

**CHAPTER 2**  
**THE MANDATE BURDEN AND ITS IMPACT ON LOCAL SERVICES**

**Considering the Local Service Component of Counties**

At this point, Counties can be viewed as a 1.3 billion dollar service industry providing a vast array of programs and services to the citizens of New Jersey. The overall scale of county functions is very difficult to picture in the abstract. Currently, more than 100 county functions are specified in statute. Each of these express provisions is composed of numerous program activities -- too numerous to mention. However, the detailed programs are not really critical to the analysis of the county service role -- what is important is the *type* of function, i. e., state mandate or local county service, in the conceptual sense discussed in Chapter one.

County services that have a locally-oriented focus are illustrated as follows:

<b>TABLE 3</b> <b>Examples of Locally-Oriented Services</b>	
<b>TYPE OF SERVICE</b>	<b>Number of Counties Providing Service</b>
Community/Junior Colleges	17
Vocational Skills Training	18
County Police	3
Solid Waste Management	21
Primary Hospitals	6
Nursing Care	15
Community Assistance for the Elderly	21
Road Maintenance	21
Parks Operation	16
Historic Preservation	21

The list can go on and may appear familiar. However, by considering these services independently, i. e., one by one, the importance of these services as a group is

often overlooked -- at least in terms of what these services may mean to county residents. When such services are not considered to be a part of something bigger then they can never be wholly appreciated. Hence, it is often easy to forget the fact that these locally-administered, locally-oriented services are a basic feature of modern county government in New Jersey.

This diffusion of the image of local services has resulted in counties being called the *'invisible'* level of government. **This is a label that can be swept away with just one statistic that summarizes what counties are all about today -- last year more than 260 million dollars was committed to local, discretionary services to county residents.** This level of appropriation can only be described for what it really is -- a substantial investment in local service provision. The actual functional categories of locally-oriented services that make up this component of the overall county service structure are listed in the following table:

TABLE 4 Development of Local Service Roles of Counties		
TYPE OF ROLE	APPROPRIATIONS - ALL COUNTIES*	
	1975	1980
Community Colleges	\$ 39,120,153.	\$ 53,745,090.
Economic Development	952,868.	1,627,320.
Environmental Health Services	5,310.	795,546.
Flood Control	134,000.	369,987.
Interlocal Services	468,542.	4,586,948.
Public Health Services	47,613,406.	45,345,924.
Recreation/Parks	33,049,190.	41,986,821.
Roads/Bridges	58,912,267.	67,411,102.
Vocational/Technical Schools	26,682,682.	44,925,016.
<hr/> Total	<hr/> \$206,938,418.	<hr/> \$260,793,754.

\*includes all state and federal aids.

The Commission believes that without counties, most if not all of these functions listed above simply would not be provided -- since neither the State nor municipal government has the ability, the money or even the proper scale to take over or establish these kinds of public services. In a very real sense then, to each and every citizen relying upon any of these locally-oriented services, counties are certainly not invisible - they are indispensable. This realization boils down to a very simple but key question -- related to the basic mandate issue discussed in Chapter one -- are such local, discretionary county services worth keeping -- when funds become scarce and hard choices need to be made?

### **Defining the Mandate Component of Counties**

Extensive locally-oriented services are one side, and a relatively new side, of modern county government in New Jersey. On the other side of the coin lies the so-called mandated functions -- the services performed at the county level on behalf of, and as a surrogate for, the State of New Jersey. The first question that arises when considering mandates is definitional -- what is meant by the term 'mandate'?

It has always been a problem to decide upon a meaning for the term state mandate. Over the years the term has meant different things to various people -- even today there is no clear-cut consensus. Part of the difficulty stems from the nature of counties themselves. Since counties are creatures of the State, *everything* they do must have express authorization in statute, whether it is a service or procedural requirement on behalf of the State or any optional or discretionary service to county residents.

Faced with the nature of counties per se, it is hard to try to draw a bright line around the mandates. Yet a determination must be made since the *scope* of the definition will determine the *magnitude* of the burden to be discussed and evaluated in light of the basic issue. A number of recently proposed definitions have been broad - so broad that almost every service a county performs can be called a mandate. Obviously, no policy decisions can be made when the problem is made too big to handle.

The Commission has chosen an intermediate approach to the mandate definition. It was decided to focus on *service-oriented mandates* (see Table 5) rather than the fixed, procedural kind -- such as pensions or social security payments. This line of reasoning is consistent with the basic thrust of the Commission's research in this area, namely, the impact of mandated services upon the ability to provide locally-oriented services. In working closely with the **New Jersey Association of County Administrators and Managers**, 12 state mandated functions were identified to be at issue.\* (See footnote on page 10) They are presented in the table on page 10.

**TABLE 5**  
**Functional Mandates At Issue**

TYPE OF MANDATE	APPROPRIATIONS		% Change
	1975	1980	
Corrections & Penal Function	\$ 37,459,138.	\$ 55,580,266.	48%
County Clerk-Judicial Function	6,511,361.	9,987,082.	53%
Elections	11,519,007.	14,111,260.	23%
Judiciary	24,341,774.	29,041,674.	19%
Maintenance of Patients	46,358,748.	69,258,582.	49%
Medical Examiner	2,313,060.	3,180,871.	38%
Probation	20,986,037.	33,754,168.	61%
Prosecutor	24,396,826.	38,533,218.	58%
Sheriff-Judicial Function	10,954,452.	13,784,494.	26%
Superintendent of Schools	1,597,076.	2,080,730.	30%
Surrogate	2,898,821.	4,012,891.	38%
Welfare	92,303,459.	116,346,970.	26%
<b>Total</b>	<b>\$281,639,759.</b>	<b>\$389,672,206.</b>	<b>38%</b>

These mandates are subsumed in categories 4, 5 and 6 of Table 1, the statutory degrees of local control. In other words, these are the mandated functions with the biggest price tag in terms of county budgetary appropriations and the least degree of control by elected county officials -- since agencies of either the executive or judicial branches of State government are the final administrators of each of these functions in New Jersey.

These are the so-called 'traditional' services supported by county government. The four largest mandated service categories are welfare, criminal justice, the judiciary and long-term care for mental illnesses. Since these twelve functions listed in Table 5 are controlled by state-level agencies, counties have virtually no hand in their administration or development -- counties simply provide the necessary fund-

\*There are other service-oriented mandates such as The Board of Taxation and the Mosquito Commission. These mandates are excluded for two reasons: relatively small cost and strictly local impact. The overall county service system will be the subject of a future report on counties.

ing. In 1980 for example, the twenty-one counties made budgetary appropriations of more than 388 million dollars for these twelve mandated functions. In a financial context then mandation on counties - the tangible expression of the State's constitutional authority -- amounts to a legal requirement on counties, that is, a command to do two things. First, that counties must fund a number of virtually *autonomous* service agencies located within the overall county structure of government. Secondly, that counties must subsidize some of the *direct* costs for certain independent state-run service facilities such as mental institutions and the superior courts. Hence, in the minds and pocketbooks of elected county officials, state mandates are seen simply as bills that must be paid.

### Setting the Objectives of the Commission's Study

In a classic sense, local services and state mandates, especially in regard to counties are like oil and water -- they just do not mix well. Both classes of public service are forced to compete for the same pool of total revenues, principally the monies derived from the county property tax base. Given the current economic climate, the effective growth in the total revenue base of counties is insufficient to keep pace with the funding needs of all of the various county functions. In other words, inflation, the accelerating cut back in federal aid programs and the absolute limit of the budget cap have combined to create a scarcity of new monies to support the myriad of county functions.

The competition for scarce revenues cannot be won by the local, discretionary functions. **State mandates by definition must be obeyed, that is, funded without regard to any other local services provided by counties.** This absolute priority for mandates - in terms of required appropriations at the county level - has been repeatedly affirmed by the courts of New Jersey. Elected county officials contend that the premise of two distinct *classes* of county functions - state mandates and local, discretionary services - is clearly valid given the level of investment and reliance in each service area. Therefore, county officials believe that *both* classes of service must be considered in the apportionment of available revenues. Basically, this is an equity argument on the part of county officials. However, as a result of recent litigation, the courts have consistently held the opposite point of view, namely: (1) mandates are constitutionally valid; (2) may therefore be placed upon county governments at the State's pleasure; and (3) must be funded even if *not* made a part of the original appropriations scheme in the approved county budget statements. On top of these rulings, the constitutional basis for mandation has been held to extend to *all* requested budgetary increases in existing mandated functions, including court orders for judicial appropriations. Essentially, this last ruling means that *none* of the State's mandates is *individually* bound by the 5 percent cap limitation whereas the *overall* county budget is so bound. The reason-

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ing that underlies this decision is that these mandates predate the cap law.\* The Commission is of the opinion that the **net effect of the overall precedent set by these court decisions is to completely undermine any financial autonomy that may have been left to counties prior to the decisions.**

What does this lack of budgetary control mean to elected county officials? Clearly, the fact that the spending patterns for the county services are in the hands of State officials and administrators has dire consequences for the future of counties in New Jersey. The lack of budgetary control at the county level implies that **the local presence of counties -- as partners with municipalities in the interlocal provision of public services -- and also as alternative regional service units -- is shrinking as the financial burden of mandates continues to grow. The Commission believes that a critical turning point has been reached in terms of the level of locally-oriented services provided by counties.** Tangible evidence of this decline in local service capacity can be found in the turmoil surrounding the 1981 county budgetary process now under way -- a growing number of counties have recently announced large-scale reductions in personnel in order to 'balance' their budgets. For the most part, it has been the local, discretionary service functions that have felt this pinch since mandated personnel remain untouchable by definition.

At the same time, the existence of a real decline in local service capacity can also be argued on a conceptual basis -- given the fact that funding for locally-oriented service does not even have to be cutback per se for net loss in capacity to occur. In other words, simply appropriating either the *same* level of funding as the previous year or a higher level of funding that is *less than* the rate of inflation must mean reduced services -- less money or reduced purchasing power cannot imply anything else. Today, the fiscal implications of this conceptual gap between the rate of appropriations and the rate of inflation have become the reality. This gap clearly exists at the county level as demonstrated by Table 6. (See Table 6 located on Page 13) This table compares the average net change in county appropriations for mandates and local services over time. The key finding is the sharp difference between total, actual appropriations and effective appropriations when adjusted for inflation.

The figures clearly show a sobering fiscal trend for counties in general. When the combined effect of inflated dollars and aid offsets are removed from the fiscal picture of all 21 counties as a group, there is an absolute and continuing decline in both revenues and appropriations since 1975.

This across-the-board reduction has been getting worse in more recent years.

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\*See *Bonnet v. State*, 155 N. J. Super.; (app. Div. 1978); *Clark v. County of Union*, 163 N. J. Super. 344 (Law Div. 1978); *In re 1978 Passaic County Budget*, 165 N. J. Super. 598 (App. Div. 1979) *In re Local Finance Board* 83 N. J. 399 (1980); *Clark v. Degnan*, 83 N. J. 393 (1980).

**TABLE 6**  
**REVENUES/APPROPRIATIONS ADJUSTED FOR INFLATION**  
**Average Net Change**

CATEGORY	1975 to 1980		1977 to 1980		1979 to 1980	
	Total	Adjusted	Total	Adjusted	Total	Adjusted
All Revenues*	+8%	-1%	+8%	-2%	+7%	-4%
All Appropriations*	+7%	-1%	+7%	-2%	+8%	-4%
-Mandates	+7%	-2%	+7%	-3%	+8%	-4%
-Local Services	+5%	-4%	+5%	-6%	+5%	-7%

\* FIGURES BASED ON CONSUMER PRICE INDEX

For example, the net decline in both revenues and appropriations is about twice as great during the last 2 years (1979/80) than during the 5 year trend (1975/1980). The critical fact to emerge from Table 6 is that the decline in financial capacity has *not* been uniform — **appropriations for local services have taken the brunt of the loss in revenue growth**. Hence, elected county officials are confronted with evidence - both recent and longer term - indicating that: (1) counties in New Jersey are, as a group, suffering from a net loss in revenue-generating capacity; (2) locally-oriented service appropriations are being sacrificed in order to balance the budget and provide for mandated services. The Commission's research findings, both for all counties and for urban counties in particular, support this broad indication of the fiscal trend for county government in New Jersey. Without a better awareness of this trend - and consideration of alternative policies to allow counties to apportion their revenues more equitably among state mandated and local service responsibilities during these hard times -- counties will become increasingly just agencies of the State.

The common point of view of elected county officials, the Commission (given its consistent interest in promoting the regional and interlocal capacities of counties) and the many people relying upon the service structure of county government is that **counties in New Jersey are at a crossroads of State policy-making**. The relationship between state mandation and the local service role needs to be examined and combined with an awareness of the serious implications of the existing financial trade-off--that is more monies for mandates and less money for locally-oriented services. Whether or not any policy decisions will be made as a result of this assessment will depend ultimately upon a value judgement -- the importance of county government in New Jersey and its ability to provide locally-oriented services to the citizens of the State. This process of decision-making must begin with the facts of the matter -- the burden of mandates and their impact upon the local service role of counties. The shape and direction of county government in New Jersey during the 1980's is at stake.

### **The Commission's Findings - A Losing Battle for Counties**

County officials are caught between the statutory cap on the local property tax levy and uncapped mandates to spend funds on behalf of the State -- regardless of the negative impact these mandated expenditures have on the remainder of the county budget. This basic policy contradiction has led to serious questions concerning the effect of placing counties, however inadvertently, in a revenue/cost squeeze:

- (1) Are state mandates growing beyond the budget capacities of counties?
- (2) Have mandates adversely affected, in any significant way, the ability to fund local service functions?

- (3) Should needed improvements or increases in mandated functions or programs always be made at the expense of local services?
- (4) In light of such questions, what is the future of counties as providers of regional and inter-local services?

The Commission's research has focused upon these questions by making a comprehensive analysis of appropriations for both mandates and local county services since 1975. While every county could be appraised on an individual basis, the Commission believes that the key policy questions and the basic issue of state mandation versus local discretion, discussed throughout this report, are best addressed on two levels, namely: on a statewide basis for all 21 counties and for a sub-group that is generally considered to be the urban counties\*. Most if not all of the decisions that may be made concerning the future of counties can be effectively presented and argued in this manner.

**The Commission's findings clearly point to a loss of service capacity among counties, that is, a declining ability to fund locally-oriented services.** This decline can only be attributed to the legal requirement to fund the much higher budget requests from the mandated functions. Faced with this situation, counties are heading in the wrong direction as units of *local* government. Having been placed in an unyielding fiscal vise -- caps and mandates -- the local service role of counties faces a perilous future. The basis for this contention is discussed in the following sections of the report.

### **Trend in County Revenues**

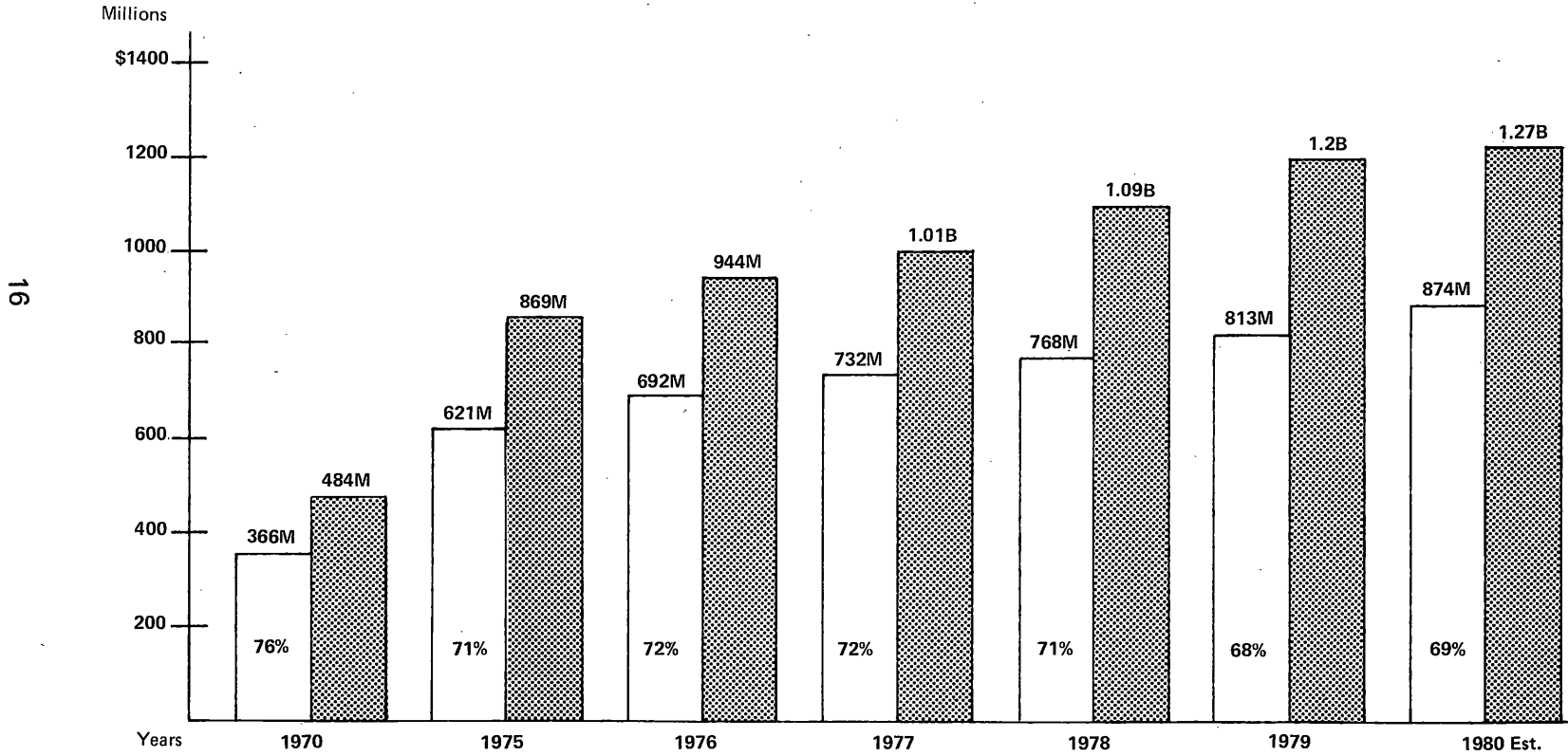
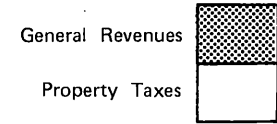
It can be seen in Chart 1 that the growth in general revenues (adjusted for C. E. T. A. and other aid programs offset by fixed appropriations) has been uniform-averaging about 8 percent per year since 1975. Given inflationary pressures and the costs of mandated programs, this rate of growth in total revenues is insufficient to maintain funding for locally-oriented services. This has resulted in the net decline in funding described earlier in Table 5. Property taxes account for about three-quarters of this overall growth in total, adjusted county revenues. Therefore, in light of the leveling-off in state and federal aids to counties, the county property tax levy remains the major source of revenue for both mandated and local services. During the last five years the county property tax has averaged 70 percent of total adjusted revenues. As a result, each year county officials must work through the budgetary process with the same margin of new revenues -- in the face of both rising inflation and the high cost of mandates. Hence, there is either little or no budgetary flexibility to juggle the competing demands for funding -- inevitably,

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\* Counties having an urban character, at least in part, include Atlantic, Camden, Essex, Hudson, Mercer, Middlesex, Passaic and Union.

CHART 1

PROPERTY TAXES AS PERCENT OF GENERAL REVENUES  
(Minus aid offsets including C.E.T.A.)



the mandates must win.

### Impact of the Mandates

County officials have had to find the money to cover a **105 million dollar increase** in mandated costs since 1975 - an average increase of 7 percent a year. In 1980, the total county bill for the twelve mandates identified in Table 5 amounted to **388 million dollars** and represented 44 percent of total county property taxes. Chart 2 presents a year to year comparison of property taxes and mandated costs, showing the 'burden' of mandates as a percent of property taxes - in other words, the percent of taxes needed to 'cover' the necessary appropriations for mandated services. In turn, Chart 3 establishes the fact that the relative cost of each of the twelve mandates varies widely. Therefore each mandate contributes a different amount to the overall cost or burden. This latter chart presents these mandates as a percent of the total cost.

As a policy consideration, clearly the largest, i. e., the most expensive, mandates are the ones that consume the revenues, and therefore reduce the ability to support locally-oriented services. Chart 4 also describes the relative costs of the twelve mandates for 1980 alone. More importantly, the court-related mandates\* are grouped together in this chart to show the relative *total* cost of all court functions supported by counties. In 1980, the cost of these functions amounted to about 85 million dollars. As a *group* then, the court-related mandates are second only to mandated welfare payments and welfare administration when viewed as a demand on county revenues. In general, **welfare, maintenance of patients, county prosecutor and the judicial functions are the critical mandates in terms of the county fisc -- since together they represent 80 percent of the total mandate burden.**

While the burden on counties to finance the cost of these mandates is certainly a heavy one, perhaps even more significant from the point of view of an immediate policy decision is the effect of the statutory budget cap on the mandates. A summary of the average percentage *increase* in each of the twelve mandates since enactment of the cap law is depicted in Chart 5 together with the total increase in all court-related mandates. When these increases are compared with the 5 percent limit on the county property tax levy, 9 of the 12 mandates are found to have exceeded the budget cap since 1977. This finding verifies that mandates are not restrained by the cap guideline at all. **The evidence that counties are caught in a fiscal vise of caps and mandates is clearly demonstrated when 9 of the largest mandates outstripped the cap guideline by 8.4 million dollars in 1980. There certainly can be no stability in the county budgetary process as long as this situation remains in effect.**

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\*The judicial mandates are considered to be corrections, probation, sheriff and county clerk court functions and the judiciary itself.

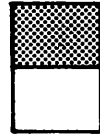
CHART 2

SIZE OF THE MANDATE BURDEN

(appropriations for mandates includes revenue sharing funds)

Total Property Taxes

Cost of Mandates



18

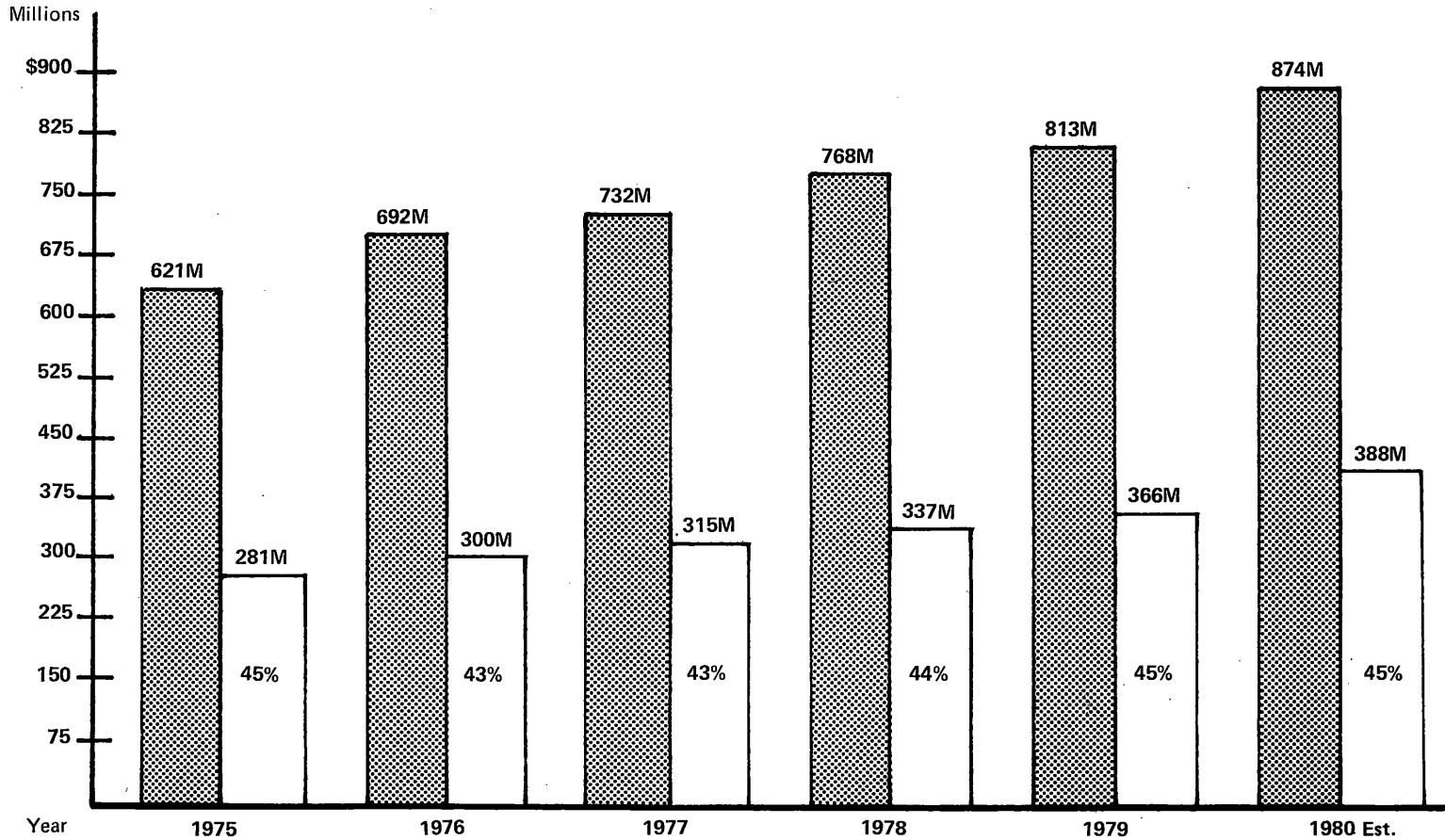


CHART 3  
 RELATIVE COST OF MANDATES

Average Percent of Total Costs 1975 to 1980	Dollar Costs 1980
WELFARE 31%	116M
MAINTENANCE OF PATIENTS IN STATE INSTITUTIONS 18%	69M
CORRECTIONS AND PENAL 13%	56M
PROSECUTOR 9%	39M
JUDICIARY 8%	29M
PROBATION 8%	34M
ELECTIONS 4%	14M
SHERIFF 3%	13M
COUNTY CLERK 2%	9M
SURROGATE 1%	4M
MEDICAL EXAMINER 1%	3M
SUPER. OF SCHOOLS 1%	2M
<b>388M TOTAL</b>	

CHART 4

RELATIVE COST OF MANDATES – 1980

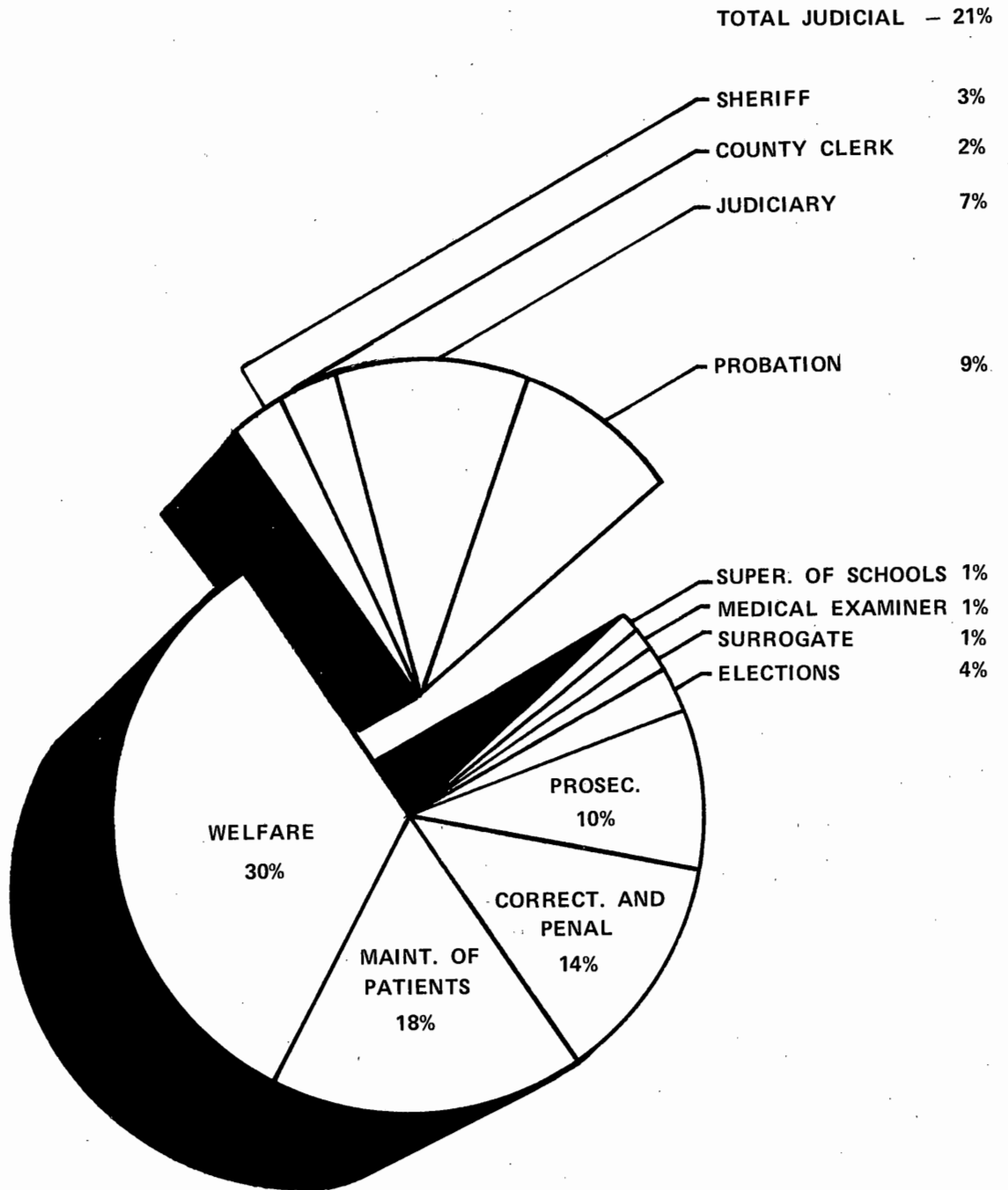


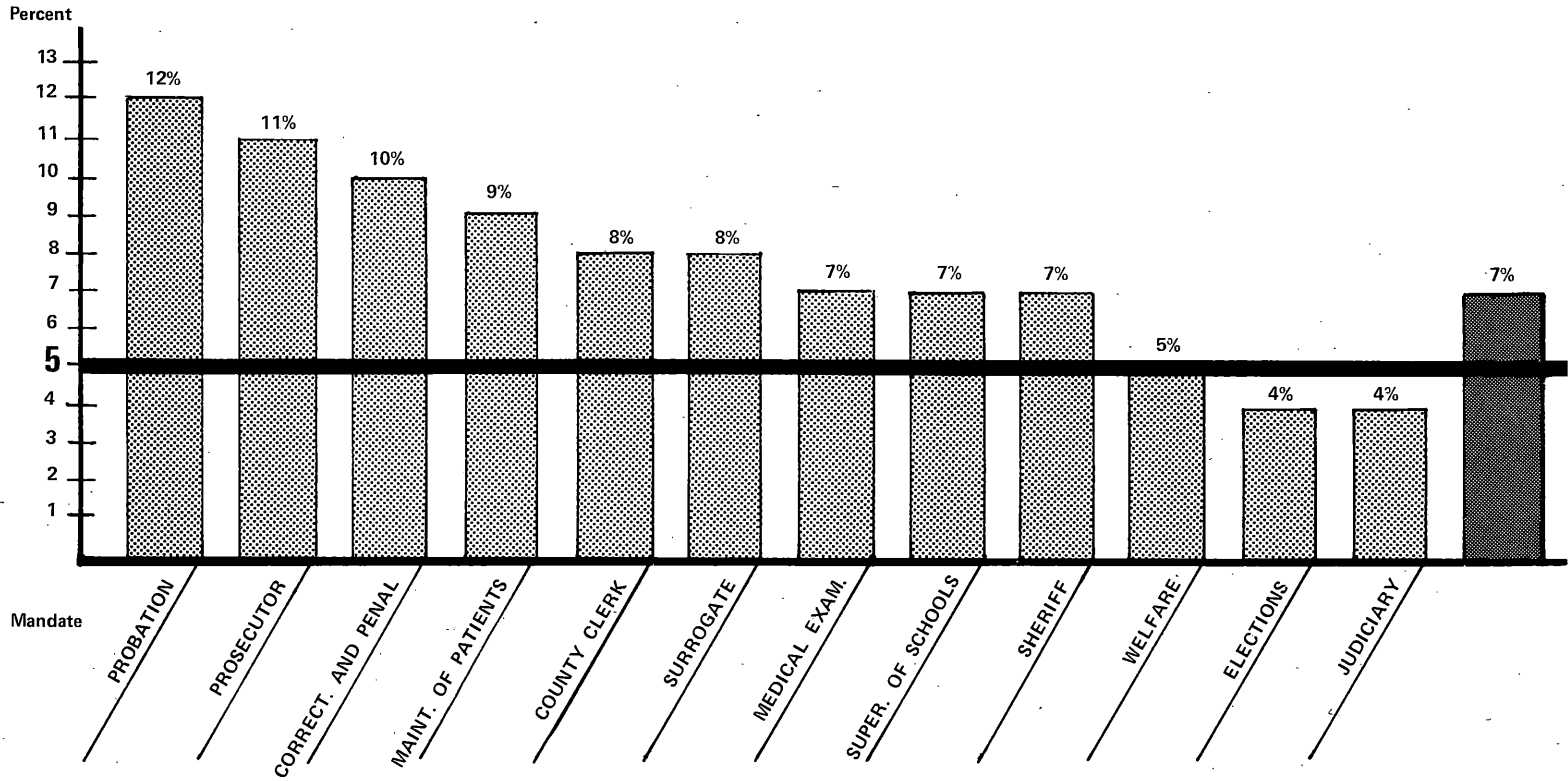


CHART 5  
 RATE OF GROWTH IN APPROPRIATIONS FOR MANDATES 1977 - 1980  
 (includes revenue sharing funds)

Total Judicial   
 Per Mandate 

21



From another perspective, the **costs** of the most expensive mandates are not evenly distributed among the 21 counties. In 1980, the eight urban counties paid 124 million dollars more than the remaining thirteen counties for these mandated functions. The cost per capita in the urban counties, as described in Chart 6, was 41 percent greater than for the remaining counties. The total increase in costs of all twelve mandates for urban counties was more than 8 percent between 1979 and 1980.

The foregoing group of charts (1 through 6) measured the cost of mandated functions in terms of total dollars appropriated and also in terms of county property tax revenues. Each method is an accurate description of the mandate burden for counties on a statewide basis. In addition, this burden was divided between the urban counties and the remaining counties both in terms of total dollars and in per capita terms -- thus showing the disparity in the relative shares of the mandate burden between the two categories of counties. This disparity is also evident when viewed on a county by county basis. Some counties bear a disproportionate share of certain mandates relative to all other counties. The **Appendix** following Chapter 3 of the report provides a detailed breakdown of the cost of the twelve mandates *per county* - ranking the counties from highest to lowest share of the total cost per mandate in 1980.

Considerations such as the share of the mandate burden assumed by a group of counties or by particular counties is a key factor in determining an equitable resolution of the mandates versus local services issue. However, the Commission believes that a necessary distinction must be made between this problem of equity and the *basic* issue confronting counties. In other words, while direct, categorical fiscal relief by the State can alleviate, in part, the inequity of the mandate burden upon certain counties - the *basic* issue of mandation versus local discretion for *all* 21 counties in New Jersey remains unanswered by targeted relief measures.

### **Effects of Mandates on Local Services**

The question of the impact of mandates upon the ability of county government to provide the funding for locally-oriented services can be introduced by taking a closer look at the trend in county budget 'flexibility'. The general rule of budget flexibility is that it exists principally at the margin, that is, in the growth of new revenues. This is the area where most policy initiatives also exist -- in the decisions concerning which service functions are to receive additional funding. Thus, measuring the increase in mandated costs as a portion of the annual increase in property tax revenues -- the margin of additional funding available for services-- results in a very grim picture for locally-oriented services. **Chart 7 shows clearly that the marginal growth in county tax revenues - budget flexibility - is largely consumed by the rising cost of state mandates.** The chart also reveals that this 'mandate bite' is getting worse every year - taking up ever more of the funding lee-

CHART 6

URBAN COUNTY BURDEN OF MANDATES — 1980

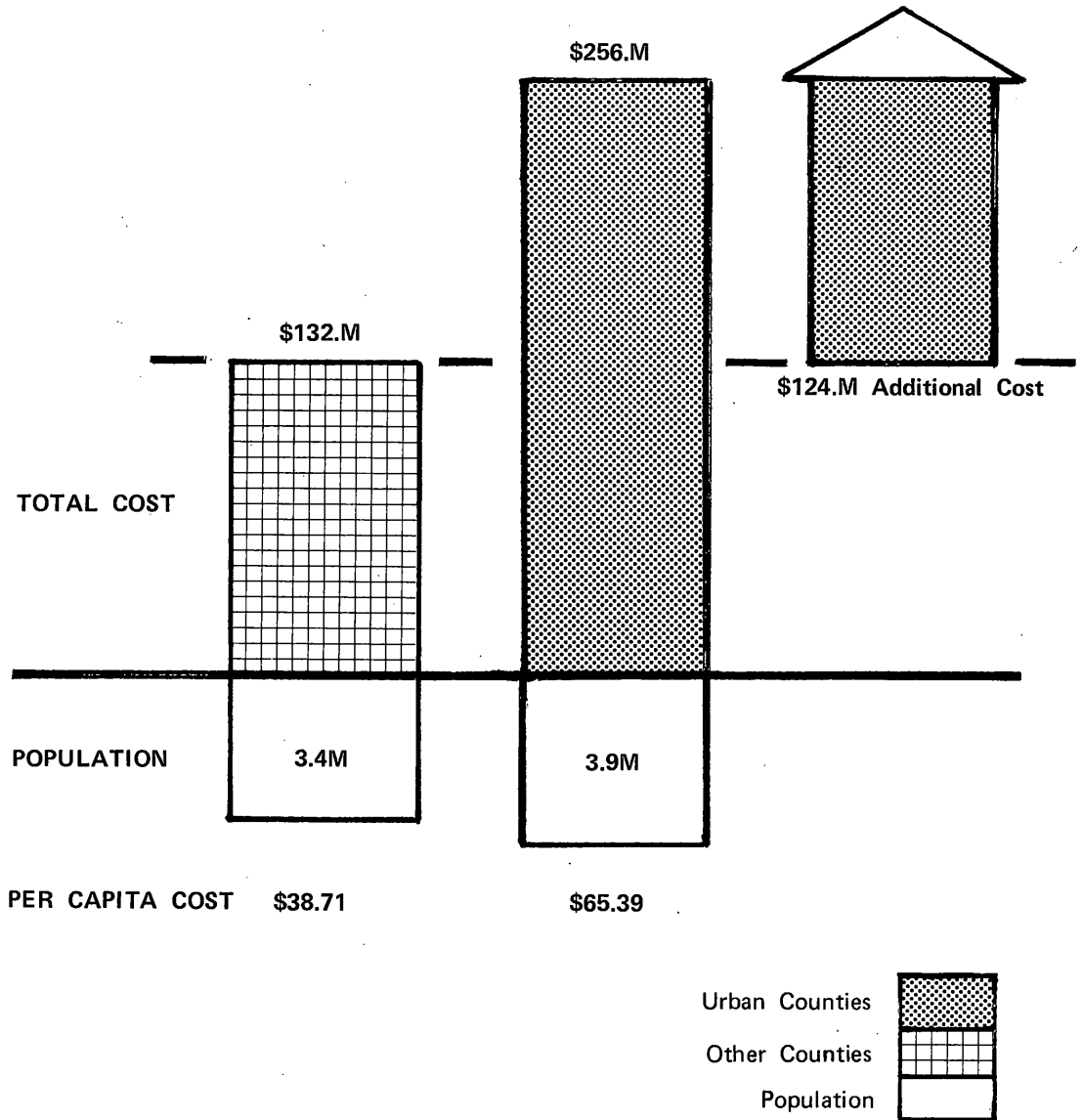
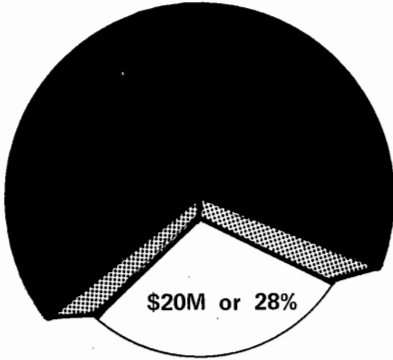


CHART 7

THE MANDATE BITE

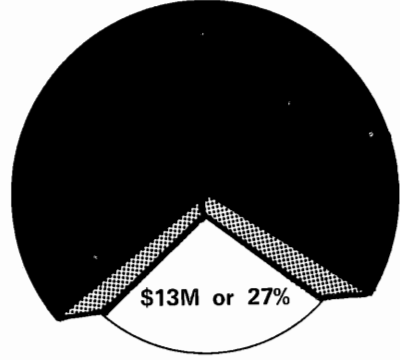
(increase in mandated costs as portion of new property taxes)

ALL COUNTIES  
1976



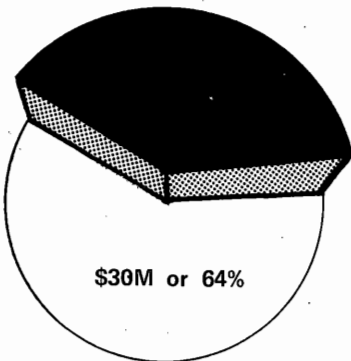
\$71.M total increase in taxes

URBAN COUNTIES  
1976



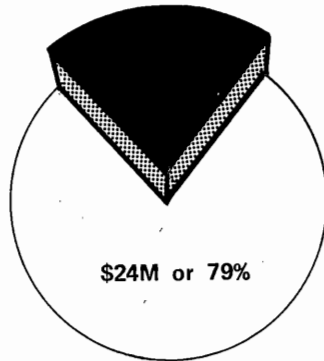
\$47.M total increase in taxes

1979



\$46.M total increase in taxes

1979



\$31.M total increase in taxes

way available to county officials. The companion to this chart, Table 7, (see page 26) provides a county by county ranking of this loss of budgetary leeway. **Faced with this financial squeeze, there is only one trade-off presently available to county officials -- cut back on locally-oriented, that is, discretionary services.**

The Commission believes that its research, as depicted in this report, has demonstrated the fact that state mandates have taken a heavy toll on the ability to fund so-called 'bread and butter' local county services. This fact has been presented: (1) in terms of total dollars spent on mandates; (2) in terms of mandated costs as a percent of property tax revenues; and most critically (3) in terms of mandated costs as a portion of additional monies available for services at each new budget cycle. It has also been shown that county appropriations for locally-oriented services have not kept pace with the real growth in property tax revenues, added costs of mandates or the general rate of inflation. In short, counties simply cannot maintain the provision of local services when the effective rate of appropriations falls faster than the remainder of their budgets. The next chart in the series presented in this report is conclusive in this regard.

Chart 8 (see page 27) is a summary presentation of the net effect of mandation upon the local service capacity of counties. It shows that, in each year since 1977, **counties on a statewide basis spent less than fifty cents on local services for every additional dollar consumed by mandates.** This gap between the rate of new appropriations for the two service categories -- mandates and local services -- grows wider with each budget cycle. The average for the years 1979 and 1980 was only 40 cents for local services to every new dollar for mandates -- a 10 percent drop-off. The urban counties fared even worse during the past two years, averaging just 11 cents for local services to every new dollar for mandates.

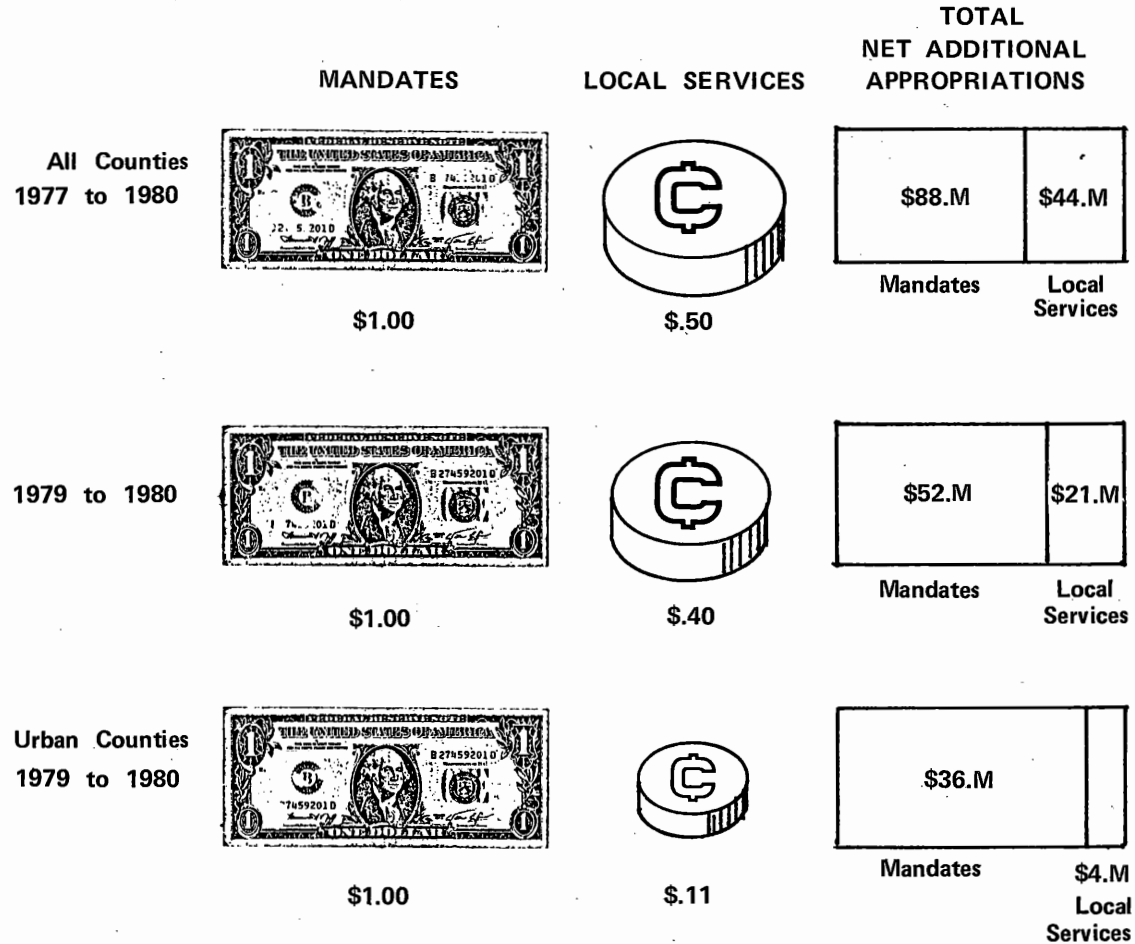
Based upon the fiscal data available to the Commission, it is clear that the level of funding for *state mandates* has been eroding the ability to fund, and therefore provide, *local services*. Measured as a percent of county property tax revenues, counties appropriated 3 percent *less* in total dollars for local services during 1980 than was allocated in 1975 -- five years earlier. This decline in funding for local services is compounded when inflation is taken into account (recall Table 6). The *effective* change in funding for local services, adjusted for inflation, was really *minus* 4 percent. Clearly, a serious imbalance exists between State and local service roles at the county level -- when in 1980 mandated costs were funded at \$52.95 per capita whereas support for local services was only \$34.05 per capita on a statewide basis.

In summary, as more revenues are drawn to pay for mandates the ability of counties to maintain local services declines accordingly. **The Commission, in response, proposes that a new balance between the state and local service roles of counties -- between paying for mandates and funding for local services -- should be developed if New Jersey's counties are going to have useful interlocal and regional service roles in the 1980's.**

**TABLE 7**  
**The Mandate Bite Per County**  
**(Percent)**

<b>Rank</b>	<b>County</b>	<b>Average Percent 1975 to 80</b>	<b>Average Percent 1977 to 80</b>	<b>County</b>	<b>Rank</b>
1	Cumberland	75	84	Essex	1
2	Hudson	67	78	Hudson	2
3	Essex	64	77	Cumberland	3
4	Warren	57	68	Sussex	4
5	Monmouth	57	67	Camden	5
6	Sussex	57	62	Monmouth	6
7	Passaic	46	55	Warren	7
8	Salem	44	48	Passaic	8
9	Ocean	44	45	Atlantic	9
10	Gloucester	42	45	Ocean	10
11	Mercer	42	44	Salem	11
12	Camden	41	42	Burlington	12
13	Burlington	37	42	Union	13
14	Union	35	41	Gloucester	14
15	Morris	33	39	Morris	15
16	Atlantic	33	38	Mercer	16
17	Middlesex	33	37	Bergen	17
18	Cape May	32	36	Middlesex	18
19	Somerset	30	33	Cape May	19
20	Bergen	29	31	Somerset	20
21	Hunterdon	17	22	Hunterdon	21
—	<i>Statewide Median</i>	42	44	<i>Statewide Median</i>	—

CHART 8  
 DOLLARS FOR MANDATES – REMAINDER FOR LOCAL SERVICES  
 (Relative net additional appropriations)



## CHAPTER 3

### CONCLUSIONS AND RECOMMENDATIONS

#### Where Do Counties Go From Here

In large part, counties are utilized in the same manner as they were nearly 150 years ago -- as vehicles to fund certain state-administered functions and programs. **As a result, much of the potential of counties as regional providers of locally-oriented services remains unrealized. The regional role of counties continues to be the historical one -- as the primary regional arm of State government for the provision of welfare, criminal justice and court - related service functions.**

Today, it makes good economic and programmatic sense to rethink this time-honored, 18th Century approach to county government -- at least from a local perspective. For certain types of services (health screening and immunization, education, social services, interlocal coordination of police, joint purchasing, senior citizen transportation, community action programs and road maintenance are prime examples) county government is the best alternative to reduce the financial burden on municipalities and yet retain a significant measure of home rule. Without some change in the present approach to counties as service providers, much of the benefit of regional consolidation and concomitant municipal fiscal relief will remain out of reach. This is certainly not the way to get the most mileage out of limited public monies.

Yet the need to change the State's functional approach to county government has an immediate, practical side to it. Counties have not been standing still for the past 12 years. There is already a 260 million dollar commitment to the provision of locally-oriented services at the county level. The Commission's research has indicated that this investment has already been adversely affected by the lack of control over mandated costs. The first step to full recognition of counties as a true form of local government must be taken now by preserving existing locally-oriented county services.

A number of strategies have been developed to deal with the effect of mandates on counties in general, on the ability to provide local services and on urban counties in particular. These alternatives are listed in Table 8 located on page 30).

This table describes the universe of options that are foreseeable at this point in time. Some are suitable for all counties while others are geared toward hard-pressed urban counties, i.e., those seven or eight counties paying very high costs for certain mandates. Almost all of these strategies have been expressed as legislative bills, in one form or another, and are under consideration by the Legislature.

**TABLE 8**

**Ways to Balance Funding for Mandates and Local Services**

1. Increase State Share of Mandated Costs
2. Shift Mandated Functions to the State
3. Provide for County Control over Mandated Costs
4. Cap the Mandates
5. Restore State Aid Revenues
6. Provide State Revenue Sharing to Counties
7. Equalize Mandated Costs above the Statewide Average
8. Increase the Cap on Appropriations
9. Make the Cap Flexible
10. Expand Cap Exemptions
11. Make the State Accountable for Growth in Mandates
12. Seek Judicial Relief
13. Eliminate Certain Mandates

The Commission has reviewed many of these proposals in the course of its research on mandated costs. The approach that is being considered is broad yet selective. **The Commission does not advocate the wholesale elimination of mandates -- the State has no recourse for many mandates at the present time -- they must remain at the county level.** Nor does the Commission believe that cap relief is the answer insofar as mandates are concerned. Both from a political and financial standpoint, tinkering with the budget cap will not offset the estimated 22 million dollar increase in mandated costs from 1979 to 1980. **On the other hand, the Commission believes that there is a need for:**

- accountability between state and local governments;
- increases in mandated costs more in line with growth of available revenues;
- relief for hard-pressed urban counties;
- protection of local service roles; and
- carefully targeted shifts of fiscal responsibility where it makes sense to do so.

In short, **the Commission affirms its support for county government first expressed in Creative Localism and therefore proposes that a balance must be sought between the state and local public service roles both funded and provided for at the county level -- a balance that does not favor the open-ended support of state mandates to the detriment of locally-oriented service provision.** In light of this overall proposal, the following recommendations are presented in order to address the impact of state mandation upon county government in New Jersey.

1. At its most basic level, the problem facing counties is the way they are utilized by the State. Counties continue to act as regional arms of the State's will -- putting state policies into practice across New Jersey. This is a one dimensional approach that treats counties as simply convenient vehicles to fund and provide mandated services. In looking at counties with only one eye, the State fails to appreciate a wide range of services reflecting *local* needs and priorities that are being provided by counties.

This lack of concern is an enormous denial of reality. In effect, the State is ignoring a component of the county service system that is equal to two-thirds of the mandate component. In 1980, for example, 260 million dollars in property taxes were apportioned to local services whereas 388 million dollars were allocated to mandates. Clearly, there is a great investment on each side of the fence.

However, the local service component lacks the priority implicit in state mandates as a matter of law. Legally superior, mandates are displacing the local service component by demanding an ever greater share of limited county revenues. By

force of two types of legal authority, mandation and cap limitation, local services must be cut to allow greater funding for mandates. To address this basic inequity, the local service component needs to be granted legal recognition. Counties need to be provided, at their option, a protected right to provide certain types of local services as a matter of law. **Therefore the Commission recommends that:**

*the legal basis of counties as bodies politic and corporate on behalf of the State, embodied in Chapter 18 of Title 40 and elsewhere, be amended to provide for a clear proprietary interest in local service provision for all counties as units of local government.*

*These statutory responsibilities should be optional upon counties and should not interfere with the general powers of municipalities provided in law. Thus the state and local service roles for counties in New Jersey should be made distinct and independent of each other as a matter of law.*

2. Adequate funding should be available to both the local and mandated service components of county government. However, the present demand for funds has outstripped the financial capacity of counties. Hence, there is simply not enough revenue to satisfy legitimate budgetary requests in *both* areas.

This is a destructive process that will result in a net loss in local service capacity. At the end of such a road, counties will be nothing more than agents of the State. Moreover, it is an unthinking process that assumes, *a priori*, that the way mandates were funded 50 or 25 years ago is the way to fund them today. It is a blind approach that ignores the need for, and provision of, substantial locally-oriented services to county residents. It is an inequitable approach that allows increased funding for mandates without limit or meaningful compromise. It is a self-defeating approach that sets off mandates against local services so that no function is financed at a sufficient level.

In short, the State's approach to county mandation needs to be changed in a way that responds to the real status of counties as vehicles of both state and local services. A rethinking of mandation (still reflecting a 19th Century approach) can create significant possibilities for major structural and service realignment between the State and local government. It can allow for creative responses to the allocation of financial resources that would unite funding responsibility with administrative control. In removing artificial barriers to effective service management, both the State and its counties would be better able to match priorities and resources.

A major key to opportunities for service reorganization is a judicial system fully supported from general revenues of the State. As the third branch of State government, the Judiciary should be afforded the leverage and flexibility of state-level funding. At present, support for the judicial system is locked into a very in-

flexible county revenue base. A fundamental shift in the funding basis would provide the means to continue innovative improvements in the provision and administration of justice *and* offset the elimination of federal aid for law enforcement. Of course, this change would also allow counties to assume substantial interlocal service responsibilities in areas such as public health, law enforcement, corrections, welfare administration and primary road maintenance. In addition, the State's pick-up of the cost of its judicial system would cause a reduction in the county property tax rate and thus provide additional property tax relief. **Therefore the Commission recommends that:**

*the entire cost of both the judiciary and the probation function should be fully assumed by the State and made a line item in the judicial portion of the State budget. In addition, sufficient funding should be authorized to allow for the provision of support services presently furnished by the county clerk and the sheriff. Responsibility for the hiring of necessary personnel, salary negotiations, budget preparation and management of all services and facilities should be vested in the Administrative Office of the Courts under the direction of the Supreme Court of New Jersey. Based upon 1980 estimates, the cost of full assumption of the judicial system would be approximately 75 million dollars. Since this recommendation would require a major increase in the State budget, assumption should be targeted for FY 1983 as part of a necessary modification in the tax structure of the State.*

3. At present, State mandates operate simply as bills that must be paid. Counties as a group have no meaningful voice in the determination of overall budgetary requests for any of the twelve principal mandates. This situation applies to both the hiring of personnel and the setting of salaries or wages. Denying elected county officials any fiscal control over the mandated part of the county budget clearly reflects the traditional, time-honored approach to state mandation.

There is no compelling reason for lumping the administration of wage and salary levels with policy decisions about who or how many persons should be hired. Absent an express State interest, Boards of Freeholders and County Executives should be regarded as the public employer of all operational personnel employed by county government. Accountability to taxpayers demands that elected county officials be provided the legal right to exercise prudent fiscal management

in seeking uniform wage and salary levels for comparable personnel. At the same time, county officials will be better able to allocate revenues and balance priorities in the provision of both local and mandated services. **Therefore the Commission recommends that:**

*in each of the principal mandated service functions primarily funded by county government, the right to act as public employer for the purposes of any and all labor negotiations be vested in the Board of Freeholders or the County Executive, as appropriate, except where a state agency is statutorily designated as the public employer. Whenever a settlement negotiated by an agency of the State exceeds the highest percentage increase negotiated by the county for comparable personnel or whenever salary, wage or benefit levels are set by court order, the State should assume the difference in the increase in personnel costs.*

4. Welfare is the largest mandate in terms of total cost and, in 1980, amounted to 30 percent of the 388 million dollars appropriated for mandates. The welfare mandate is a particularly inequitable mandate since the burden to fund it falls largely upon urban counties. Principles of equity and the need to relieve financially hard-pressed counties suggest that welfare costs be equalized on a statewide basis. Counties with larger welfare populations should be protected from assuming an extraordinary share of the total cost.

A means to equalize the cost of welfare is a necessary step in the impending reorganization of the social service system in New Jersey. There is an inevitable need to rework the existing framework of managing and providing social welfare in the state. In light of clear and imminent federal cutbacks in welfare programs, major adjustments in the present modes of jurisdiction, negotiation, client management and direct service provision will be necessary. Anticipating such changes, further proposals are now being developed to establish county-based agencies that would consolidate all maintenance and support services. **Therefore the Commission recommends that:**

*As a first step in the reorganization of the social welfare system in New Jersey, counties should be held harmless for increases in the total cost of support payments and administration above the statewide average figure for these costs. The State should assume the difference in cost between the statewide average figure and a county's share of the*

*total costs when that county's costs for welfare exceed the statewide average.*

5. Maintenance of patients in state institutions is also a mandate that works an inequity on counties, particularly urban counties. Counties have no control over the rates levied to house and care for the mentally ill and retarded. Institutionalization for the mentally disordered is really a State function that is provided on a regional basis. While counties should contribute a share of the funding, counties should also be protected from bearing the full responsibility for all increases in the cost of this State function. **Therefore the Commission recommends that:**

*the State assumes all increases in total costs in excess of 5 percent caused by changes in the rates of maintenance. Alternatively, the State should assume the difference in cost between the statewide average total cost for maintenance and the total cost for each county whose expenditures are above the statewide average figure.*

6. A shifting of financial responsibility between the State and counties is the best way to match resources and priorities. Hence, the preceding recommendations were designed to balance the provision of both state and local services provided by counties. In setting this balance, the State would assume a greater share in funding some of its mandates. There would be three direct benefits to this trade-off. First, the counties would be able to assist the State in regionalizing certain programs in functional areas such as welfare, law enforcement or corrections. In addition, counties would have the financial capacity to relieve municipalities of the total burden of providing basic public services. Finally, counties would be able to maintain their existing locally-oriented service system.

In order to accomplish this process of reallocating both funding and service responsibilities, counties will need the legal means to assume new obligations. A mechanism is needed that will allow the *direct* matching of resources and priorities in providing services at the local level. Such mechanism should be optional, flexible in application, and allow counties to work with either municipalities or the State on a cooperative basis. **Therefore the Commission recommends that:**

*the Interlocal Services Act, N. J. S. A. 40:8A-1 et seq. be expanded to allow for major intergovernmental service arrangements with the State as well as among counties and municipalities. The revised law should continue as an enabling act without restrictions as to type or character of the cooperative venture. In order to promote such interlocal arrangements, all expenditures for planning,*

*negotiations, and necessary capital improvements should be exempted from the cap law as prescribed in N. J. S. A. 40A:4-45 et seq. Finally, an intergovernmental study project should be conducted in order to review and suggest alternative mechanisms to: promote major cooperative ventures; determine and evaluate the costs and benefits of such ventures; and assist in the establishment of new forms of service provision.*

7. The continued provision of the local services component of the county service system is essential. These services are a vital part of county government and are relied upon by many residents. **Absent the protection of the local services base offered by preceding recommendations,** counties, as an alternative, should be granted state aid to halt the erosion of locally-oriented service appropriations. **Therefore the Commission recommends that:**

*a new program of State revenue sharing be made available to counties as general grants-in-aid. Such grants would be applicable to any service provided by counties at the option of the Board of Freeholders or the County Executive and include any capital projects not currently eligible under existing State grant or bond programs.*

# **APPENDIX**

**Breakdown of**

**Mandated Costs**

**per County**

**1980**

**Total for all Judicial Functions**  
**(Includes county clerk, judiciary, probation and sheriff)**

County Rank	Dollars (in thousands)	Percent of Total
Essex	13,714	16%
Bergen	9,424	11%
Middlesex	7,797	9%
Passaic	7,474	9%
Union	7,147	8%
Hudson	7,098	8%
Camden	6,560	8%
Monmouth	3,900	5%
Mercer	3,368	4%
Morris	3,350	4%
Ocean - Median	2,913	3%
Somerset	2,340	3%
Burlington	2,331	3%
Atlantic	2,126	2%
Gloucester	1,851	2%
Cape May	1,042	1%
Cumberland	998	1%
Hunterdon	991	1%
Salem	756	1%
Warren	749	1%
Sussex	641	1%
<b>TOTAL</b>	<b>86,567</b>	<b>100%</b>

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County Rank	Cost/Capita
Passaic	\$16.69
Essex	16.15
Union	14.22
Camden	13.93
Middlesex	13.10
Hudson	12.78
Cape May	12.70
Salem	11.71
Somerset	11.60
Hunterdon	11.39
Atlantic	11.23
Bergen	11.16
Mercer	11.02
Gloucester	9.28
Warren	8.92
Ocean	8.47
Morris	8.22
Monmouth	7.86
Cumberland	7.54
Burlington	6.46
Sussex	5.52
<b>STATEWIDE</b>	<b>\$11.80</b>

### County Clerk - Judicial Functions

County Rank	Dollars (in thousands)	Percent of Total
Essex	2,172	22%
Middlesex	1,263	13%
Camden	790	8%
Hudson	687	7%
Union	650	7%
Passaic	592	6%
Monmouth	584	6%
Mercer	579	6%
Ocean	482	5%
Morris	388	4%
<b>Bergen - Median</b>	<b>359</b>	<b>4%</b>
Gloucester	229	2%
Burlington	224	2%
Atlantic	190	2%
Somerset	167	2%
Sussex	128	1%
Hunterdon	124	1%
Cumberland	118	1%
Cape May	110	1%
Warren	94	1%
Salem	59	1%
<b>TOTAL</b>	<b>9,987</b>	<b>100%</b>

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County Rank	Cost/Capita
Essex	\$2.56
Middlesex	2.12
Mercer	1.90
Camden	1.68
Hunterdon	1.42
Ocean	1.40
Cape May	1.34
Passaic	1.32
Union	1.29
Hudson	1.24
Monmouth	1.18
Gloucester	1.15
Warren	1.13
Sussex	1.10
Atlantic	1.00
Morris	.95
Salem	.91
Cumberland	.89
Somerset	.83
Burlington	.62
Bergen	.42
<b>STATEWIDE</b>	<b>\$1.36</b>

### Judiciary

County Rank	Dollars (in thousands)	Percent of Total
Bergen	5,428	19%
Essex	4,400	15%
Passaic	2,716	9%
Hudson	2,609	9%
Union	2,471	9%
Middlesex	2,073	7%
Camden	1,738	6%
Monmouth	1,236	4%
Morris	1,198	4%
Atlantic	911	3%
<b>Ocean - Median</b>	<b>749</b>	<b>3%</b>
Mercer	701	2%
Burlington	532	2%
Somerset	524	2%
Cumberland	417	1%
Gloucester	371	1%
Salem	254	1%
Hunterdon	213	1%
Cape May	205	1%
Warren	153	1%
Sussex	144	1%
<b>TOTAL</b>	<b>29,042</b>	<b>100%</b>

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County Rank	Cost/Capita
Bergen	\$6.43
Passaic	6.07
Essex	5.18
Union	4.92
Atlantic	4.81
Hudson	4.70
Salem	3.93
Camden	3.69
Middlesex	3.48
Cumberland	3.15
Morris	2.94
Somerset	2.60
Cape May	2.49
Monmouth	2.49
Hunterdon	2.44
Mercer	2.29
Ocean	2.18
Gloucester	1.86
Warren	1.82
Burlington	1.47
Sussex	1.24
<b>STATEWIDE</b>	<b>\$3.96</b>

### Probation

County Rank	Dollars (in thousands)	Percent of Total
Essex	5,334	16%
Camden	2,972	9%
Passaic	2,941	9%
Middlesex	2,911	9%
Hudson	2,456	7%
Bergen	2,381	7%
Union	2,225	7%
Monmouth	1,654	5%
Morris	1,607	5%
Somerset	1,495	4%
<b>Ocean - Median</b>	<b>1,295</b>	<b>4%</b>
Burlington	1,285	4%
Gloucester	1,143	3%
Mercer	964	3%
Atlantic	752	2%
Cape May	602	2%
Warren	439	1%
Cumberland	376	1%
Salem	350	1%
Hunterdon	312	1%
Sussex	260	1%
<b>TOTAL</b>	<b>33,754</b>	<b>100%</b>

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County Rank	Cost/Capita
Somerset	\$7.41
Cape May	7.33
Passaic	6.57
Camden	6.31
Essex	6.28
Gloucester	5.73
Salem	5.42
Warren	5.23
Middlesex	4.89
Union	4.43
Hudson	4.42
Atlantic	3.97
Morris	3.94
Ocean	3.76
Hunterdon	3.58
Burlington	3.56
Monmouth	3.33
Mercer	3.16
Cumberland	2.84
Bergen	2.82
Sussex	2.24
<b>STATEWIDE</b>	<b>\$4.60</b>

**Sheriff – Judicial Functions**

County Rank	Dollars (in thousands)	Percent of Total
Essex	1,808	13%
Union	1,801	13%
Middlesex	1,549	11%
Hudson	1,346	10%
Bergen	1,256	9%
Passaic	1,225	9%
Mercer	1,124	8%
Camden	1,061	8%
Monmouth	426	3%
Ocean	388	3%
<b>Hunterdon - Median</b>	<b>343</b>	<b>2%</b>
Burlington	290	2%
Atlantic	272	2%
Morris	156	1%
Somerset	155	1%
Cape May	125	1%
Sussex	110	1%
Gloucester	108	1%
Salem	93	1%
Cumberland	87	1%
Warren	62	1%
<b>TOTAL</b>	<b>13,784</b>	<b>100%</b>

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County Rank	Cost/Capita
Hunterdon	\$3.94
Mercer	3.68
Union	3.54
Passaic	2.74
Middlesex	2.60
Hudson	2.42
Camden	2.25
Essex	2.13
Cape May	1.52
Bergen	1.49
Salem	1.44
Atlantic	1.44
Ocean	1.13
Sussex	.94
Monmouth	.86
Burlington	.80
Somerset	.77
Warren	.74
Cumberland	.66
Gloucester	.54
Morris	.38
<b>STATEWIDE</b>	<b>\$1.88</b>

Correctional and Penal

A-6

County Rank	Dollars (in thousands)	Percent of Total
Essex	15,432	28%
Mercer	4,435	8%
Middlesex	4,321	8%
Camden	3,753	7%
Hudson	3,420	6%
Monmouth	3,373	6%
Bergen	3,149	6%
Passaic	2,674	5%
Burlington	2,298	4%
Union	2,088	4%
Cape May - Median	1,514	3%
Cumberland	1,508	3%
Morris	1,193	2%
Atlantic	1,124	2%
Ocean	1,065	2%
Somerset	935	2%
Gloucester	835	2%
Sussex	807	1%
Warren	657	1%
Salem	550	1%
Hunterdon	538	1%
<b>TOTAL</b>	<b>55,580</b>	<b>100%</b>

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County Rank	Cost/Capita
Cape May	\$18.45
Essex	18.07
Mercer	14.51
Cumberland	11.40
Salem	8.52
Camden	7.97
Warren	7.83
Middlesex	7.26
Sussex	6.95
Monmouth	6.80
Burlington	6.37
Hunterdon	6.18
Hudson	6.16
Passaic	5.97
Atlantic	5.94
Somerset	4.63
Gloucester	4.19
Union	4.16
Bergen	3.73
Ocean	3.10
Morris	2.93
<b>STATEWIDE</b>	<b>\$ 7.58</b>

**Elections**

County Rank	Dollars (in thousands)	Percent of Total
Bergen	1,655	12%
Essex	1,649	12%
Hudson	1,416	10%
Camden	1,139	8%
Monmouth	1,052	7%
Middlesex	912	6%
Union	795	6%
Morris	749	5%
Mercer	739	5%
Passaic	713	5%
<b>Ocean - Median</b>	<b>707</b>	<b>5%</b>
Gloucester	446	3%
Burlington	433	3%
Atlantic	364	3%
Somerset	334	2%
Cape May	283	2%
Cumberland	178	1%
Hunterdon	146	1%
Sussex	141	1%
Warren	139	1%
Salem	122	1%
<b>TOTAL</b>	<b>14,111</b>	<b>100%</b>

County Rank	Cost/Capita
1 Cape May	\$3.45
2 Hudson	2.55
3 Camden	2.42
4 Mercer	2.42
5 Gloucester	2.24
6 Monmouth	2.12
7 Ocean	2.06
8 Bergen	1.96
9 Essex	1.94
10 Atlantic	1.93
11 Salem	1.88
12 Morris	1.84
13 Hunterdon	1.67
14 Somerset	1.66
15 Warren	1.65
16 Passaic	1.59
17 Union	1.58
18 Middlesex	1.53
19 Cumberland	1.34
20 Sussex	1.21
21 Burlington	1.20
<b>STATEWIDE</b>	<b>\$1.92</b>

### Maintenance of Patients in State Institutions

County Rank	Dollars (in thousands)	Percent of Total
Essex	10,458	15%
Hudson	8,750	13%
Bergen	6,793	10%
Union	5,548	8%
Passaic	4,872	7%
Mercer	4,666	7%
Middlesex	4,437	6%
Camden	4,021	6%
Morris	3,290	5%
Monmouth	3,079	4%
<b>Atlantic-Median</b>	<b>2,425</b>	<b>4%</b>
Somerset	1,760	3%
Burlington	1,610	2%
Gloucester	1,470	2%
Cumberland	1,300	2%
Ocean	1,288	2%
Sussex	827	1%
Warren	822	1%
Hunterdon	701	1%
Salem	580	1%
Cape May	562	1%
<b>TOTAL</b>	<b>69,259</b>	<b>100%</b>

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County Rank	Cost/Capita
Hudson	\$15.75
Mercer	15.27
Atlantic	12.81
Essex	12.32
Union	11.04
Passaic	10.88
Cumberland	9.83
Warren	9.79
Salem	8.98
Somerset	8.72
Camden	8.54
Morris	8.07
Bergen	8.05
Hunterdon	8.05
Middlesex	7.46
Gloucester	7.37
Sussex	7.13
Cape May	6.84
Monmouth	6.20
Burlington	4.46
Ocean	3.74
<b>STATEWIDE</b>	<b>\$ 9.44</b>

Prosecutor

A-9

County Rank	Dollars (in thousands)	Percent of Total
Essex	5,200	13%
Union	3,530	9%
Camden	3,404	9%
Middlesex	3,271	8%
Bergen	3,238	8%
Hudson	2,871	7%
Passaic	2,513	7%
Monmouth	2,326	6%
Morris	1,706	4%
Ocean	1,622	4%
<b>Atlantic-Median</b>	<b>1,558</b>	<b>4%</b>
Mercer	1,551	4%
Burlington	1,235	3%
Somerset	1,216	3%
Gloucester	1,029	3%
Cape May	629	2%
Hunterdon	454	1%
Salem	351	1%
Cumberland	347	1%
Sussex	314	1%
Warren	168	1%
<b>TOTAL</b>	<b>38,533</b>	<b>100%</b>

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County Rank	Cost/Capita
Atlantic	\$8.23
Cape May	7.66
Camden	7.23
Union	7.02
Essex	6.13
Somerset	6.03
Passaic	5.61
Middlesex	5.50
Salem	5.44
Hunterdon	5.21
Hudson	5.17
Gloucester	5.16
Mercer	5.08
Ocean	4.72
Monmouth	4.69
Morris	4.18
Bergen	3.83
Burlington	3.42
Sussex	2.70
Cumberland	2.63
Warren	2.00
<b>STATEWIDE</b>	<b>\$5.25</b>

### Welfare

County Rank	Dollars (in thousands)	Percent of Total
Essex	28,261	24%
Hudson	12,971	11%
Camden	10,659	9%
Monmouth	8,661	7%
Passaic	7,037	6%
Mercer	6,816	6%
Middlesex	6,714	6%
Union	4,969	4%
Ocean	4,753	4%
Atlantic	4,548	4%
<b>Burlington-Median</b>	<b>3,865</b>	<b>3%</b>
Bergen	3,373	3%
Cumberland	2,859	2%
Gloucester	2,545	2%
Morris	2,228	2%
Somerset	1,807	2%
Cape May	1,059	1%
Salem	941	1%
Sussex	890	1%
Warren	783	1%
Hunterdon	608	1%
<b>TOTAL</b>	<b>116,347</b>	<b>100%</b>

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County Rank	Cost/Capita
Essex	\$33.29
Atlantic	24.02
Hudson	23.35
Camden	22.63
Mercer	22.30
Cumberland	21.62
Monmouth	17.45
Passaic	15.72
Salem	14.57
Ocean	13.82
Cape May	12.91
Gloucester	12.76
Middlesex	11.28
Burlington	10.71
Union	9.89
Warren	9.32
Somerset	8.96
Sussex	7.66
Hunterdon	6.99
Morris	5.46
Bergen	4.00
<b>STATEWIDE</b>	<b>\$15.86</b>



