11-1-1995

Unfunded Mandates

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**DOI:** [https://doi.org/10.17077/0b5p-14q0](https://doi.org/10.17077/0b5p-14q0)

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A framework for environmental priorities, Midwestern Perspectives. Research Note #5

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Unfunded Mandates

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A FRAMEWORK FOR ENVIRONMENTAL PRIORITIES
Midwestern Perspectives

November 1995

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Chicago, Illinois

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Midwestern Perspectives

Why do some environmental bills capture the attention of legislators far more quickly than others? Why are some questions economically or environmentally far more important than others? Why are some research results used widely, while others become peripheral? The motivation to better understand these type of questions propelled us to embark on a three-year (1992-95) project funded by the Joyce Foundation of Chicago, Illinois. In the Fall of 1992, a small but highly effective group of individuals, including elected representatives of midwestern legislatures, decision makers of major federal and private environmental organizations agreed to serve on a Steering Committee for this project. The Committee met once each year, during the summer of 1993 and 1994, for two days on the campus of the University of Iowa in Iowa City, Iowa.

During the first year, we investigated the factors contributing to the setting of agendas and priorities within the context of environmental bills in the Midwest. The Steering Committee, selected invited guests, and the project staff reviewed and evaluated a myriad of mechanisms that influence the agenda setting process in the enactment of environmental bills in Midwest legislatures. In 1993, the project team actively evaluated the utility of the four competing paradigms of comparative risk assessment (CRA), environmental justice, pollution prevention, and innovation in the priority-setting process.

In 1993, we observed major national coalitions forming around the issues of unfunded mandates; regulatory reform through risk assessment and cost-benefit analysis; and expanding private property rights through a re-definition of “takings.” Since the dramatic events of the 1994 elections, and the Republican “Contract with America,” several Federal bills on unfunded mandates, takings (private property rights), and regulatory reform are currently making (or have already made) their way through the U.S. Congress. In the last few months alone, regulatory reform as well as the topics of unfunded mandates and takings/property rights have been hotly contested in the nation’s capitol. In the context of this dynamic sea of political change, what is needed is the dissemination of timely, useful, and unbiased information to state-level elected officials and policy makers.

In the first two years we held conferences to explore the mechanisms by which environmental legislation gets formed, passed, or defeated in state legislatures in the Midwest. We explored the utility of the CRA paradigm and the competing or alternative paradigms of environmental justice, pollution prevention, and innovation in legislative settings. We also considered in detail the implications of the “Unfunded Mandates,” and the “Takings/Property Rights” issues on the Midwestern legislatures.

Armed with much useful information on the above topics, we held three workshops, one each in Michigan, Kansas, and Minnesota during the Spring/Summer of 1995. These workshops investigated how the issues of unfunded mandate relief, property rights/takings and risk regulations at the federal level will influence the agendas of state legislative committees on the environment. Over eighty individuals, including about thirty five Midwestern legislators, legislative staff, interest group leaders, and lobbyists from five states attended one of these workshops.

Based on the experiences over the last three years, including the 1995 workshops, we found that critical environmental problems have broad generality, are conflict-ridden, and require analysis in multi-dimensional information domains (such as social, political, legal, economic, public opinion, and scientific spheres). Typical examples of such problems include the well known case of sitingnoxious facilities (the “not in my backyard syndrome,” or NIMBY), the regulatory provisions of the various federal acts (Clean Air, Clean Water, Safe Drinking Water, RCRA, and CERCLA) which have led to the current impasse of “no more unfunded mandates,” and debates over the various agenda or priority setting paradigms of CRA, environmental justice, pollution prevention, and innovation.

We concluded that timely dissemination of brief Research Note such as this would be of much value to state-level elected officials and others with strong interest in environmental protection and public policy.

About the Authors

R. Rajagopal, professor in the Departments of Geography and Civil and Environmental Engineering, The University of Iowa, has directed a number of integrated environmental assessments. He is the founding editor of The Environmental Professional, and in 1988 was recognized by the Environmental Protection Agency for his outstanding contributions to innovative problem solving and creative thinking.

David Osterberg, former state representative and past chair of the Energy and Environmental Protection Committee of the Iowa General Assembly, has been instrumental in initiating and developing key legislation in ground water protection, sustainable agriculture, and energy conservation in the state of Iowa. He holds an adjunct faculty appointment in the Department of Geography at The University of Iowa.
A FRAMEWORK FOR ENVIRONMENTAL PRIORITIES:
A Midwestern Perspective
Research Note #5: Unfunded Mandates
R. Rajagopal and David Osterberg

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THE IOWA EXPERIENCE

We come from places wide and far
To find out what the factors are
That make a law succeed or fail,
The stones that lie along the trail
As we seek to break the long stagnation
With good environmental legislation
That has support of many factions
To guarantee successful actions
In a fight to save our whole landscape
From history’s abuse and rape;
To clean our water, land, and air
So our offspring know we really care;
To leave a legacy that’s prime,
And to know we acted just in time.
To share ideas we were bidden
To explore approaches value-ridden
And start upon a broad alliance
With a new context to air our science
Let’s carry on this weekend’s labors
And infect our legislative neighbors
’Til they, without a single pause,
Unite with us in common cause,
So that efforts here to make a start
Won’t falter, fail, and fall apart
So that facts and feelings both come through
Yielding better laws for me and you
That yes, for ours and other nations,
Will last for seven generations,
And we’ll know we’ve played a special role
When we know, at last, our earth is whole.

Llewellyn R. Williams, Sage of the Sagebrush

Note: Dr. Llew Williams, one of our Steering Committee members from the U.S. EPA graciously contributed the above poem at the end of the first annual meeting in 1993; and also the poem on the back cover of this note at the end of the second annual meeting in 1994.
Introduction

Unfunded federal mandates are requirements placed on state, local, and tribal governments, with limited or no funds provided with which to enforce them. These requirements exist in all activities of government, including the environmental sector. Resistance to unfunded federal mandates has grown in the past few years, and environmental mandates are often the focus of such resistance.

History and background

Mandates are an outgrowth of the state-federal partnership for grants-in-aid, dating back to the early 19th century. Land for public schools, and agricultural experiment stations are examples of federal grants. These grants were provided to states with no requirement more stringent than annual reports of performance. Since that time, classic “carrot and stick” methods of implementing mandates and regulations in combination with grants and subsidies have been used as federal tools to influence state and local actions.

Over the past three decades, Congress has enacted many environmental laws, charging the US EPA with the responsibility to implement them. In general, the EPA’s implementation approach, following military parlance, is termed “command and control.” Industries are required to monitor and control their operations to meet government-prescribed emission standards, and states receive primacy (responsibility to manage pollution generating entities within its borders) and funding from federal mandates on states.1 One federal law may enact their own laws and write their own regulations.

Our States have neither more nor less power than that reserved for them in the Union by the Constitution, no one of them ever having been a State out of the Union.

Abraham Lincoln

Glossary of Terms

Mandates: Federal (or State) initiated mandates can be defined to include any constitutional, statutory, court, or administrative action that either limits or places requirements on State, local, and tribal (or local and tribal) governments. Other definitions of mandates are possible, of course, but the central issue raised, regardless of the definition employed, is that costs are imposed on, or that decision-making authority is restricted for “subordinate” officials operating below the mandating level of government (Federal or State). Recent definitions add “that mandates demand action from “subordinate” governments under pain of civil or criminal sanctions.”

Federal Unfunded Mandate is any action that requires states to act under the threat of penalties or loss of assistance, or alters large mandatory programs such that costs to state and local governments increase beyond existing levels. The law applies to new environmental laws or new measures in the reauthorization of current environmental laws that impose new burdens on local government.

Comparative Risk Assessment: It is a procedure for ranking environmental problems by their seriousness (relative risk) for the purpose of assigning program priorities. Typically, a team of experts identify problems by type of risk: cancer, non-cancer, ecological, material damage, and so on. To arrive at a measure of relative risk, the experts then compare and rank the problems within each type based on factors such as severity of impact, the number of people exposed, the duration of exposure and the like.

Crossover sanctions: Requirements of one program to the grant eligibility of another. Quite popular in highway funding. For example, linking the development of seatbelt and motorcycle helmet laws to other Federal highway funds.

Crosscutting requirements: Conditions, such as the non-discrimination provisions of the Civil Rights Act, that apply to all or most Federal grants to advance some nationally espoused social or economic goal.

Direct orders: Legal orders, such as the Fair Labor Standards Amendments of 1974 for minimum wage, issued under the threat of civil or criminal penalty.

Fiscal Note: It is essentially a financial impact statement on proposed bills or mandates on State and /or local governments. A large majority of states (42 out of 50) regularly prepare such notes for proposed state-level mandates. The recently passed Federal law also has such a requirement.

Pre-emption: Intrusion by a higher level of government (Federal or State) on areas of traditional jurisdiction of a lower level of government (State or local). Many environmental laws (such as the Clean Water and Safe Drinking Water Acts) passed in the last 25 years have preempted state responsibilities, and now require the states to enforce national standards with federal assistance.

Point of Order: A legislative procedure (or a challenge) that will enable full consideration of factors that were included in the passage of a bill. In the case of the “unfunded mandates” bill, procedural challenges (point-of-order) could be mounted due to the lack of a detailed accounting of costs and benefits of Federal mandates on lower levels of government. Congress would have to vote to override the point-of-order for debate on the bill to continue.

Washington contingent on adherence to federal mandates and prescribed implementation policies. Local governments which construct, operate, and manage their own facilities such as water and sewage treatment plants and landfills are treated as polluting sources by the state.

Today it is almost impossible to estimate the impact of federal mandates on states.1 One federal law may lead to several regulations, while the same law may require the states to enact their own laws and write their own regulations.

The movement against unfunded mandates began in earnest in October 1993, when many state, county,
and local governmental organizations staged a day of protest in Washington DC. Columbus, Ohio was one of the earliest cities to voice its concerns against unfunded mandates. In Columbus, a study found that 11 percent of the city’s budget went to pay for compliance with unfunded federal regulations, with the future trend pointing to an increasing level of local contribution. Local officials began to share such information and on October 27, 1993, many organizations representing state and local governments collectively declared a “National Unfunded Mandates Day.”

Federal-state issues

Introduction

In 1993, the US Advisory Commission on Intergovernmental Relations (ACIR) prepared a study on federal regulation of state and local governments. One of the major findings of the study was that administrative rules and regulations affecting state and local governments increased throughout the 1980s. During 1981–1990, Congress enacted 27 statutes imposing new regulations on States and localities, compared to 22 during the 1970s (see table on right). Seven of the 22 (those highlighted in the table) dealt with environmental issues.

<table>
<thead>
<tr>
<th>Major New Enactments and Statutory Amendments Regulating State and Local Governments 1981-1990</th>
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<td><strong>Title</strong></td>
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<td>Surface Transportation Assistance Act, 1982</td>
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<td>Social Security Amendments of 1983</td>
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<td>Voting Accessibility for the Elderly and the Handicapped Act, 1984</td>
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<td>Emergency Planning and Community Right-to-Know Act, 1986</td>
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<td><strong>Safe Drinking Water Act Amendments of 1986</strong></td>
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<td>Civil Rights Restoration Act, 1987</td>
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<td>Cash Management Improvement Act, 1990</td>
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<td>Education of the Handicapped Act Amendments of 1990</td>
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<td>Older Workers Benefit Protection Act, 1990</td>
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</table>

Key (see CC—Crosscutting Requirement CO—Crossover Sanction DO—Direct Order PP—Partial Preemption

The local interests of a state ought in every case to give way to the interests of the Union; for when a sacrifice of one or the other is necessary, the former becomes only an apparent, partial interest, and should yield, on the principle that the small good ought never to oppose the great one.

Alexander Hamilton

After the period that saw increases in the numbers of mandates, concern over huge budget deficits at the federal level led to decreased funding to states for implementation of such mandates. A study sponsored by the Council of State Governments found that the federal component of state environmental agency budgets declined or stayed the same in 22 of 50 states between fiscal years 1993 and 1994. According to a local official, the number of federal mandates increased at the rate of 22 percent a year between 1987 and 1991. States are now having difficulty finding extra money to meet an increasing number of mandates, and yet still balance their own budgets. By EPA’s own estimates, state and local governments will spend $50 billion annually by the year 2000 just to comply with federal environmental standards already on the books. “These are enormous monetary impacts without the states or municipalities having any real ability to pay for them,” says Prosser, the Indiana Environmental Management Commissioner. “And yet we all know that the work needs to get done.”

Observing these problems, the ACIR study recommended that the federal government institute a moratorium on mandates for at least two years, and conduct a review of the process to restore balance, partnership, and state and local self-government in the federal system.
State perspectives

Over the last two years, the National Conference of State Legislatures (NCSL), the Council of State Governments (CSG), the US Conference of Mayors, the National League of Cities, the National Association of Counties, and the National Governor's Association have organized a united front protesting the proliferation of unfunded federal mandates. The position of these mandate relief proponents (or opponents of unfunded federal mandates) is based on a number of issues:

- What is politically expedient for the Congressperson or Senator endorsing unfunded mandates, is a financial burden for state and local elected officials who must raise taxes to implement the unfunded part.
- While mandates lead to uniform national standards, they fail to allow for regional differences and flexibility in solutions.
- States are not adequately consulted in the development of fiscal notes and the drafting of legislation or writing of regulations.
- Mandates preempt state laws and often appear piece-meal with overlapping jurisdictions, duplicative efforts, and conflicting standards.

States' rights should be preserved when they mean the people's rights, but not when they mean the people's wrongs; not, for instance, when they are invoked to prevent the abolition of child labor, or to break the force of the laws which prohibit the importation of contract labor to this country.

Theodore Roosevelt

Opposing the reduction in unfunded mandates are many environmental and labor groups, and some state-level policy makers. These groups believe:

- Without nation-wide mandates requiring a floor of protection for human health and the environment, fierce competition among states to lure new businesses would lead states to shave regulations and reduce environmental protection standards.
- If the federal government does not pass protection laws, then no level of government will. Only the federal government has the power and the will to act in these areas.
- Mandates have resulted in a cleaner environment for all.
- Mandates help resolve inter-state and inter-national problems.

State-local issues

In many cases, states impose mandates on local governments for reasons similar to those of federal initiatives. State mandates frustrate local officials, especially when they restrict local ability to raise funds to pay for the required policies. For mandates with significant fiscal impacts, several states (42 out of 50) prepare fiscal notes estimating the cost to local government. Many share these costs with local government.

Constitutional amendments and statutory provisions are two routes by which states have restricted the proliferation of mandates. As of 1992, constitutions in California, Colorado, Florida, Hawaii, Louisiana, Maine, Michigan, Missouri, Montana, New Mexico, and Tennessee, and statutes in Illinois, Massachusetts, Rhode Island, and Washington now require at least partial reimbursement of cost of mandates to local governments. California's constitution has one of the most clearly articulated mandate reimbursement program (see box above). Fiscal note alone is not sufficient to deter unfunded mandates imposed on local governments. Strong legislative commitments at the state level are needed to provide necessary funds to meet the mandates. MacManus found that fifteen states have adopted reimbursement strategies, nine of which are constitutionally required and the remaining six are through statutory requirements; and that local governments are more interested in the adoption, implementation, and monitoring of mandate-reimbursement requirements than that of fiscal notes. In addition, states can also enable or permit localities to raise funds by means other than the property tax.

Several states have also created sunsetting provisions for periodic review or expiration of mandates. At least eight states periodically review, reenact, or sunset mandates. California reviews its mandates annually, and in Florida, Illinois, and a few
others mandates are reviewed periodically. In some states, task forces are appointed to identify mandates for repeal.4

Mandate relief at the local level can be attained by adopting the general principles described above to suit to local conditions. Zimmerman in a survey of 25 states, found that in their fight against a growing tide of state mandates, local governments have indeed adopted and developed a set of their own strategies.8

**White House Executive Orders**

During the presidential campaign of 1992, candidate Clinton pledged not to impose too many unfunded Federal mandates on State, local, and tribal governments. Responding to this pledge, the administration in 1993 issued two Executive Orders (E.O. 12866, Regulatory Planning and Review; and E. O. 12875, Enhancing the Intergovernmental Partnership). One of the twelve regulatory principles contained in E.O. 12866 dealt with mandates. E.O. 12875 was issued on October 26, 1993, the day before the ‘National Unfunded Mandates Day,’ and focused on unfunded mandates, the regulatory waiver process, and consultation with state, local, and tribal governments.8 E.O. 12875 states that no federal agency shall promulgate any regulation that is not required by statute and that imposes a mandate on State, local, or tribal government, unless there are funds to pay the direct costs. Otherwise, the agency shall document the State and local concerns, communicate such concerns to the Office of Management and Budget, and provide a justification for the mandated requirement.

These Executive Orders apply only to agency directives, and not to those required by law. It would be appropriate to evaluate the performance of these Executive Orders after a couple of years, since little time has elapsed since their issuance.8

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**Unfunded Mandate Reform Act (UMRA) of 1995**

Earlier in January/February of this year, two unfunded mandates bills H. R. 5 by Clinger (R-PA), Portman (OH-R), Davis (VA-R), and Condit (CA-D) in the House and S. 1 by Kempthorne (R-ID) and Glenn (OH-D) in the Senate passed with significant majorities (360-74) and (86-10). A conference committee report resolving the differences between the two bills was promptly produced and signed into law by President Clinton on March 17, 1995. Some of the purposes of UMRA are:

- to strengthen federal, state, local, and tribal government partnerships;
- to end the imposition of federal mandates on state, local, and tribal governments and the private sector without giving full consideration to the economic impacts of such mandates;
- to require congressional authorizing committees of bills to identify mandates and include a cost-benefit analysis, the impact on the public and private sector competitive balance, information on federal funding assistance to cover the cost of the mandate, the extent to which the bill preempts state, local, or tribal government law, and a Congressional Budget Office (CBO) cost estimate;
- to permit any member of Congress to stop proceedings on any bill or joint resolution reported by an authorizing committee lacking the necessary CBO statement or that results in direct costs of $50 million or more in a year to state, local, and tribal governments;
- to require Executive Branch agencies to ensure that state, local, and tribal concerns are fully considered in the promulgation of regulations;
- to require the preparation of estimates of anticipated costs and benefits of regulations to states, localities, and tribal governments; and
- to require the Advisory Commission on Intergovernmental Relations (ACIR) in consultations with the CBO to complete a study to reconcile, terminate, suspend, consolidate, or simplify Federal mandates.

**Congressional actions**

Over eighteen months of relentless efforts in the form of press releases, media appearances, and public rallies by mayors, county commissioners, and representatives of organizations such as the National League of Cities and the National Association of Counties, finally paid off in the form of a new federal law (see box on top). Leaders of the 104th Congress and President Clinton quickly agreed on a degree of relief from unfunded mandates. The Unfunded Mandate Reform Act of 1995 in the House was envisioned as "[a] bill to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes."

**Now that the federal government is putting little cash behind its environmental mandates — maybe it's time to put states in charge.**

DeWitt John and R. Steven Brown, 1993

A provision in the recently passed Unfunded Mandates Reform Act of 1995 charges the US Advisory Commission on Intergovernmental Relations (ACIR) to review and evaluate existing federal mandates for their scientific content and analytical rigor. The ACIR was created by the US Congress in 1960, and includes 26 members, 20 appointed by the President, and 3 each by the President of the Senate and the
Speaker of the House, respectively. The ACIR will review the mandates for their adequacy in terms of scientific content, peer-reviewed research, risk assessment, and cost-benefit analysis. Based on such an evaluation and review, some mandates may be terminated or suspended until additional research information becomes available. The Commission is expected to come up with a set of initial recommendations for public comment by December 1995, followed by the final recommendations in March 1996.10

Midwestern perspectives

In this section we provide a brief sketch of selected mandate-related activities, findings, and legislation in some of the midwestern states that have come to our attention.

Indiana

The Indiana Legislature, due to mandate burdens, cut nearly a third of its Department of Environmental Management (DEM) budget in 1993.11 The DEM’s request for assistance from the General Assembly failed due to the lack of an agreement on the amount and proration scheme for collecting permit fees. The agency was left with a $5 million deficit in a $60 million budget.12

In July 1993, Gov. Evan Bayh announced a plan to return some of the permitting responsibility back to the US EPA. The US EPA wasn’t eager to take the programs back. Shortly thereafter, the DEM Commissioner met with businesses, mayors, legislators, and newsmedia around the state. Collectively, the parties crafted a fair and equitable plan for assessing permit fees. Based on this plan, state lawmakers voted to provide $18 million in 1994 to fund waste and water programs—about $11 million of it in new permit fees.11

Iowa

In 1994, the Iowa Legislature passed a law to partially protect local government from state-imposed mandates. House File 642 required that all administrative rules costing local units of government a combined $100,000 must go through a fiscal impact analysis. Furthermore, the law requires that any new state mandate on local governments must declare the state’s share of the mandated cost.

Kansas

A 1993 study of expenditures of 22 of 105 Kansas counties found that,13

- The net cost of federal mandates was 2.4 percent, while the net cost of state mandates was 44.1 percent, for a total net cost of 46.5 percent of county expenditures. Potential revenues lost due to mandated restrictions were 33.4 percent for the surveyed counties.

- The revenue restrictions significantly inhibit the counties’ ability to respond to fiscal demands, and counties with the highest per capita assessed valuation exhibited the lowest mandate costs expressed as a percent of their total expenditures. That is, richer counties are better able to absorb mandate costs within their budgets compared to poorer counties.

Another 1994 Kansas study of 941 state mandates on cities and counties found that:14

- Over the last 14 decades, state mandates have grown exponentially.

- 224 out of 941 restricted policy making and administrative actions, 173 restricted financial transactions, and 160 enabled citizen preemption of local action.

- A large percent of organizational mandates apply to counties rather than cities, and state statutes have defined the organizational structure and job descriptions of many county offices, while leaving cities relatively free of such constraints.

- There are fifty-six mandates on health and environment, thirty-five on public works, ten on agriculture, and six on natural resources.

Minnesota

During the 1995 session, action on many mandate-related legislation took place in Minnesota. Chapter 248 repealed the 1994 state mandate policy. Chapter 57 requires state agencies to analyze and report the cost imposed by federal mandates to the Legislature by January 15, 1996. Chapter 233 requires disclosure of costs of rules and an analysis of the difference between the rule and federal regulation. Chapter 220 requires Minnesota Pollution Control Agency to disclose the cost of wastewater mandates. In addition, S. F. 1608 created a division of state and local mandates in the Office of the State Auditor to estimate costs of state mandates. S. F. 1692 stipulated that local political subdivisions are not required to implement new or expanded unfunded state mandates. Finally, amendments prohibiting the Minnesota Pollution Control Agency from enforcing new water quality standards more stringent than federal standards without specific legislative approval were adopted on the Senate Floor (35-31) on April 21, 1995, but the same amendment failed on the House Floor (65-68) on April 26, 1995.

It may look like an unfunded mandate upstream, but downstream it looks like untreated sewage.

William J. Craven, 1995

Wisconsin

In 1990, local governments in Wisconsin opposed to unfunded state mandates organized a united front. The state put a set of amendments requiring reimbursement for mandates on the ballot, which were overwhelmingly approved by the voters. Such successes are likely to move the battle to other states, particularly states where local government revenue-raising capacities are
limited and their fiscal conditions are worsening.7

Mandates and setting environmental priorities

Nearly $9 billion is spent annually on environmental protection and natural resources. Decisions about how states spend that money are at a turning point. The question is whether the federal government, which contributes only approximately 15 percent of that amount, should continue to call the shots, or state and local governments should gain a greater say in how that money is used.15

In a 1992 Chicago study, researchers found that mandates often force local governments to make unpalatable tradeoffs. The study’s authors commented that federally mandated actions that appear valuable on the surface, such as making clean air improvements, can reduce the ability of a community to pay for such important things as protecting children from random violence. Unfunded mandates and burdensome regulations force cities and states to comply without adequately factoring in local conditions.1

State priorities derived by using comparative risk assessment run the risk of being at odds with federally mandated requirements, according to several state policy makers. The federal focus on specific national priorities may not match what the states are finding to be their worst problems.16

Many state environmental officials are calling for a change in federal-state relationship. Much of EPA’s grant funds are clearly earmarked by Congress for specific air, water or waste programs. Allowing states to transfer funds across programmatic lines based on local needs would lead to cost effective solutions. A state official in South Dakota says: “Right now, I cannot transfer money from an air program to a water program even if I can show a higher risk for water pollution and a higher cost-benefit ratio.”11

In Ohio, over 80 percent of what the state does in environmental protection is mandated by federal requirements. However, the top state priorities being uncovered by a recent comparative risk analysis project don’t necessarily match up with the federal mandates. Because of this mis-match it is not possible for the state to reorient its environmental program towards the local priorities.15

The citizens of Columbus, Ohio have been at the forefront of the unfunded mandates movement. Mayor Gregory Lashutka recently provided his perspective on how regulations and unfunded mandates affect the people of Columbus.17

“Each Washington bureaucracy and each congressional subcommittee, views my city through a soda straw. They only look at one thing at a time—for instance: Underground Storage Tanks, storm water run-off, drinking water, trucker safety, etc. Nobody seems to consider the cumulative effect of all this. The torrent is unbelievable.”

“Columbus doesn’t have the staff to stay on top of this. For smaller cities, it must be hopeless.”

“City councils perform a delicate balancing act each year, ranking priorities and allocating resources to solve problems. Mandates and regulations upset this balancing act by moving federal priorities to the top of our budgets.”

“Local officials aren’t leading the fight against federal mandates and regulations so much as we are voicing the concerns of our constituents.”

A note of caution

Over the last 2-3 years, groups representing state and local governments have made a concerted effort in seeking mandate relief from Congress. For example, in 1994 NCSL initiated a quarterly titled Mandate Watch List to inform state officials of potential new mandates. Articles have almost exclusively concentrated on the unfairness of mandates, with very little said in defense of the good brought about by the mandates.

“Unfunded federal mandates is a brilliant sound bite. And behind the rhetoric lies one legitimate issue -- the adequacy of federal funding for important government programs that share widespread public support.”

Robert Adler, 1994

Pro-mandate positions have become unpopular among state and local government officials. The author of an article for CSG’s State Government News had difficulty finding anyone to openly speak in favor of mandates. A state environmental agency director, who asked to remain anonymous, said, “I don’t want to be quoted speaking positively about mandates in a magazine that my Legislature reads.”

In his congressional testimony, Adler18 pointed out that the total federal and state contributions to local government expenses, exceed even the most inflated estimates of the so-called unfunded federal mandates.

“For example, cities received three times as many dollars from higher levels of government as the US Conference of Mayors estimated they were required to spend due to unfunded federal mandates. Viewed in this light, the federal government is still a cash cow for states and localities, rather than unreasonable burden.18

Furthermore, federal grants to states and cities continue to increase. In 1993, states and localities received over $214 billions—about 14 percent of the federal budget.18

Combining the statistics available from several government reports, it is estimated that the ten most costly
federal mandates cost on the average 12 percent of local revenues. Since cities only raise about 78 percent of their revenues, Adler18 observes that the estimated cost of unfunded mandates actually translates to about 8 percent of the total revenues of cities.

A review19 of the Mayors' study19 by the Senate Environment and Public Works Committee raised many points regarding the projection methods used and cost computations. One prominent report from Ohio estimated the cost of unfunded environmental mandates on eight Ohio cities to be a whopping $2.85 billion during the decade of 1991-2000.

Adjusting the above figures for a variety of scale distortions, Craven20 states that Ohio cities will spend an average of $35 per person per year and that such expenditures are reasonable given the improvements in environmental quality that have occurred.

Sources for further information

The NCSL is a good source of information on mandates. For details on the Mandate Monitor, the Mandate Watch List, or the Mandate Catalog, contact:


The Council of State Governments. D. M. Sprague, Executive Director. 3560, Iron Works Pike, P.O. Box 11910, Lexington, KY. 40578-1910. Tel.: (606) 231-1866.


U. S. General Accounting Office. P. O. Box 6015, Gaithersburg, MD. 20884-6015. Tel.: (202) 512-6000.

US Advisory Commission on Intergovernmental Relations. 800 K Street, NW, Suite 450, South Building, Washington, DC. 20575. Tel.: (202) 653-5540.

Cited references

Acknowledgments

The authors wish to acknowledge the significant financial support provided by the Joyce Foundation over the last three years (1992-95), and particularly Margaret H. O'Dell, Program Officer at the Foundation who gently nudged us from time to time to stay the course and maintain the project's public policy focus throughout. We were fortunate to have had the advice and counsel of several leading elected officials from the legislatures of the Midwest and a few senior government and private sector scientists and administrators.

We owe a debt of gratitude to these individuals for having given us their precious time by serving on the Steering Committee during the last two to three years. Our sincere thanks go to the following: Rep. Clement Balanoff (IL); Sen. Chris Beutler (NE); Rep. Bill Bobier (MI); Sen. Vernon Ehlers (MI); Rep. Barbara Gronemus (WI); Rep. Darrell Hanson (IA); Dr. Stephen Hildebrand, Director, Environmental Sciences Division, Oak Ridge National Laboratory; Rep. Karen McCarthy (MO); Rep. Laura McClure (KS); Sen. Patricia Miller (IN); Sen. Steven Morse (MN); Sen. Donna Nalewaja (ND); Sen. Lana Pollack (MI); Rep. Thomas Roberts (OH); Sen. Ralph Rosenberg (IA); Dr. Syed Shariq, Former CEO, American Technology Initiative, a NASA technology transfer initiative; Sen. Linda Stensland (SD); and Dr. Llew Williams; Senior Science Advisor, EMSL, Las Vegas, US EPA.

During 1992-94, several invited guests, experts, scholars, and specialists willingly came to Iowa City and shared much valuable information with the Steering Committee at our annual meetings. We thank the following individuals for either sharing their insights or being gracious hosts: Professor Lynton Caldwell, University of Indiana; Mr. Kevin Doyle, Director, National Programs, Environmental Careers Organization, Boston; Associate Dean John Fix, University of Iowa; Mr. John Griffin, Sokaugon-Chippewa tribal community representative, Wisconsin; Mr. John Konefes, Director, Iowa Waste Reduction Center, University of Northern Iowa; Ms. Kate Kramer, Director, Western Center for Comparative Risk, Boulder, Colorado; Mr. Larry Morandi, Senior Fellow, National Conference of State Legislatures, Mr. Tim Mulolland, Scientist, Comparative Risk Assessment Project, Wisconsin DNR; Former Provost Peter Nathan, University of Iowa; Dr. Mary O'Brien, University of Montana; Mr. Adam Rombel, Editor, ECOS Magazine, Council of State Governments; Ms. Judith Stockdale, Former Executive Director, Great Lakes Protection Fund, Chicago; and Mr. Craig Struve, Owner/Manager, C-S Agrow Services, Iowa.

With the assistance and insights of the Steering Committee and the invited guests we learned a lot about the process of priority setting in the first two years (1992-94). During the last year, especially in the last six months, we took the show on the road and conducted three workshops, one each in Michigan, Kansas, and Minnesota. Once again, we owe much to the four Steering Committee members Rep. Bill Bobier (MI), Rep. Laura McClure (KS), Sen. Chris Beutler (NE), and Sen. Steven Morse (MN) who were instrumental in hosting these workshops and turning them into a highly productive learning experience for the participants and us. In all over eighty individuals, about thirty-five of whom were elected officials, attended and actively participated in the workshops. We very much appreciated their attendance and active participation.

Research interns and assistants provided vital support over the three year period, and in chronological order include Amy Scott, Dana Slade, Miriam Schoenbaum, Kevin Pape, Jay Emerson, Robyn Kreimberg, Randall Wilson, Shobhana Kasturi, Denise Mineck, Jack Hunt, Rahul Krishnaswamy, and Robert Vander Hart. Trudy Meyers of the Department of Geography diligently saw to all the necessary administrative and financial matters related to the project. Editorial assistance was provided by Melanie Datz and K. Kris Hirst. Final production of these six research notes was completed by K. Kris Hirst, Scribal Traditions, Iowa City.

On perspectives -- thought you would like to know

- On the average, an American spent about $4,000 per year (in 1992) on health care. Ninety percent of that money was spent in the last months of life.
- Less than one percent of the health care dollars went to preventive care, or less than $34 per person per year.
- Congress, in late July 1995, has been debating the EPA appropriations bill which will fix the U. S. EPA’s FY 96 budget at $4.89 billion, or less than $20 per person per year.
Change, Change on the Range

Iowa City, you sure look pretty with the sun of late Spring in your skies.
From dawn 'til dark, we're constructing an ark, as the waters of conflict arise.
So much to be done, such wars to be won, when the health of our world is at stake
It takes more than compliance and credible science if the logjam of problems we'll break.

The meeting gets brisk as comparative risk is put down with a sense of derision;
As the scientist says, there are so many ways to arrive at a better decision.
With so many actors and so many factors and so little money to burn,
We're going berserk; will alternatives work as we figure out just where to turn?

Will the world out there trust us to advocate justice for the groups with so little standing,
Where the easy solution's been to put the pollution in their yard without understanding
That someone must fight for their inalienable right to breathe free, to eat safe, to drink pure.
If they can't turn to you, then what else can they do, and who will their safety ensure?

Will the laws in the making protect from the taking the properties we've worked to own,
Or on the contrary, can some law arbitrary strip our holdings down to the bare bone?
As part of the scene, we'll go "Beyond the Green" to direct the environment movement
Restoring the brownfields or all the surround fields to A- or B-level improvement.

It's never a breeze to collect impact fees when employers decide to just move,
And leaving the rest to just plain decongest does not always the environment improve.
To minimize harm, you just buy out a farm where expansion's at minimal cost;
Beware of the ruse, you may have a "lose-lose" when at both ends you see what's been lost.

Can we keep our production while we get waste reduction with newer approaches we use;
If we balance our wealth with ecological health, we'll find we don't have to abuse.
When we dug out the mud of the 100-year's flood and assessed all the disaster's reasons,
Just who's to account as restoring costs mount, when we knew well the risks of the seasons?

With all that we've shared, let's be better prepared to move forward with good legislation
That right from its birth clearly betters the Earth with efficient and just regulation.

Llewellyn R. Williams, "The Sage of Sagebrush"

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A Midwestern Perspective

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