

## **Unfunded Mandates and Tax Reform**

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## By Dick Clark

Prior to the 2014 Legislative session, the Nebraska Legislature's newly commissioned special committee on taxation, the Tax Modernization Committee, traveled across the state to gauge public support for tax reform. When the Committee wrapped up its work in December, Senator Galen Hadley, the committee's chairman, recounted numerous comments from taxpayers on Nebraska's high property tax.[1] In press interviews, Senator Hadley mentioned increased state aid as one means for providing property tax relief. The Committee's official report recounts some of the history of property taxation in Nebraska, including unsuccessful[2] attempts at property tax relief via state aid being tried in the 1950s and again in the 1990s.[3]

According to a report prepared for the committee by Professor John Anderson of the University of Nebraska–Lincoln,[4] the historical rationale for reliance on property taxes as a revenue source for county governments is based in part on the principle of local control over local spending. The idea is that local taxes like property taxes that are administered by local bodies to pay for their spending are more likely to encourage stakeholder participation in the policy process and appropriately restrain government spending according to local willingness and ability to pay.

Naturally, when local taxpayers are in the crosshairs for the financing of a new project or program, the opportunity for individual engagement in the policymaking process is greater at the local level than it would be with a statewide tax controlled by lawmakers in Lincoln. However, when spending is mandated at the state level for counties and is funded by local revenue, such mandates disrupt the checks and balances that would otherwise be present in local policymaking. This can leave the taxpayer with seemingly little recourse, with local officials pointing the finger at lawmakers in Lincoln, and with state officials pointing right back at counties.

State mandates on local governments abound in Nebraska. Included among these mandates are: general assistance (including indigent burial), provision of public defenders for indigent defendants, prosecution of state crimes, DNA collection from felons, juvenile justice expenses, guardians ad litem, truancy plans that involve county attorneys, county court expenses, bridge inspection and repair, monitoring of drug lab cleanup, enhanced 911 service, and care of

abandoned and pioneer cemeteries.[5] While some of these are federal obligations that have been delegated to the counties by state government, most are creatures of the Nebraska Legislature.

For vital government services, it is important to first determine which level of government should be responsible and which revenue source would best incentivize responsible stewardship. Some mandates relate to services that ought to be handled in a markedly different manner from the status quo. For example, the best solution relating to the expenses associated with county attorney involvement in truancy matters is not to merely shift costs but rather to significantly reduce the extent to which county attorneys are involved. [6] Finally, other mandated activities may not be appropriate government functions at all, or may be more efficiently provided by the private sector.

Acknowledging the significant impact of state mandates on local budgets and local taxes, members of the Unicameral have proposed two interim studies to be completed before the 2015 legislative session on unfunded mandates. These studies will revisit the work of the Task Force on Unfunded Mandates created by the Legislature in 1996 and examine the effect of mandates on local budgets and their resulting impact on property tax levels. [7] Systematically identifying and reexamining these mandates are crucial steps in advancing the tax reform conversation in Nebraska.

[1] Martin, Brent. "Major tax cut proposal unlikely in upcoming legislative session." Nebraska Radio Network. December 16, 2013. [URL: <a href="http://nebraskaradionetwork.com/2013/12/16/major-tax-cut-proposal-unlikely-in-upcoming-legislative-session-audio/">http://nebraskaradionetwork.com/2013/12/16/major-tax-cut-proposal-unlikely-in-upcoming-legislative-session-audio/</a>]

[2] "State Aid Not the Path to Nebraska Property Tax Relief." *Platte Chat.* Platte Institute. December 18, 2013. [URL: <a href="http://www.platteinstitute.org/research/detail/state-aid-not-the-path-to-nebraska-property-tax-relief">http://www.platteinstitute.org/research/detail/state-aid-not-the-path-to-nebraska-property-tax-relief</a>]

[3] "Balancing the Scales: A Comprehensive Review of Nebraska's State-Local Revenue System." Report to the Legislature: LR155. Tax Modernization Committee. 103rd Nebraska Legislature. 2013. [URL:

http://nebraskalegislature.gov/pdf/reports/committee/select\_special/lr155\_taxmod2013.pdf]

[4] Anderson, John. "Property Taxes in Nebraska." Tax Modernization Committee. 103rd Nebraska Legislature. August 9, 2013. [URL: http://news.legislature.ne.gov/tmc/files/2013/08/Property-Taxes-in-Nebraska1.pdf]

[5] This partial list of unfunded mandates on counties was taken from Senator Tom Hansen's testimony in the February 20, 2014 hearing on LB 812, his bill to terminate the inheritance tax.

[6] "Refocusing on Juvenile Justice Reform." *Platte Chat.* Platte Institute for Economic Research. March 7, 2014. [URL: <a href="http://www.platteinstitute.org/research/detail/refocusing-on-juvenile-justice-reform">http://www.platteinstitute.org/research/detail/refocusing-on-juvenile-justice-reform</a>]

[7] "Interim study to examine the fiscal impacts of unfunded mandates." Legislative Resolution 544. 103rd Nebraska Legislature. 2013. [URL: http://nebraskalegislature.gov/bills/view\_bill.php?DocumentID=23612];

[7]"Interim study to review the work of the Task Force on Unfunded Mandates created in 1996 and to study the impacts of unfunded and underfunded mandates on counties and county governments." Legislative Resolution 582. 103rd Nebraska Legislature. 2013. [URL: <a href="http://nebraskalegislature.gov/bills/view\_bill.php?DocumentID=23652">http://nebraskalegislature.gov/bills/view\_bill.php?DocumentID=23652</a>]