

Approved: February 6, 1996
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairperson Kent Glasscock at 1:30 p.m.. on February 1, 1996, in Room 521-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Senator Gerald Karr
Rep. Daniel Thimesch
Rob Hodges, Kansas Telecommunications Assn.
Chris McKenzie, Executive Director, Kansas League of Municipalities
Dr. H. Edward Flentje, Professor of Public Administration, Wichita State University

Others attending: See attached list

The minutes of the January 30, 1996 meeting were distributed. Representative Miller moved that the minutes be approved, and Rep. Ott seconded. Motion passed.

Chairperson Glasscock announced the opening of the public hearing on:

SB 409: An act concerning cities; relating to the incorporation thereof; amending K.S.A. 15-123 and repealing the existing section.

Chairperson Glasscock recognized Senator Karr who spoke in favor of **SB 409**. Senator Karr distributed some testimony from Linda D. Peterson, Marion County Commissioner, who, unfortunately, was unable to attend the meeting. Senator Karr presented her testimony which said that **SB 409** would enable counties to use the 911 fees collected on phone bills toward the cost of signing rural roads. This legislation is necessary since the past Attorney General had ruled that the present language does not allow counties to use the 911 fees for rural address signs. Her written testimony said that the installation of rural addressing signs would greatly help Emergency Medical Service, fire, and law enforcement personnel in responding to emergency calls. Senator Karr said that an amendment was made in the Senate Committee to clarify language that moneys collected via 911 could be used only for signing for that purpose. (Attachment 1.)

Representative Miller asked Senator Karr to clarify rural areas, and he said that it was for all counties. Representative Miller also wanted to know if there was a possibility that this legislation would open doors for cities who wanted new signs to use these monies. Senator Karr replied that they have a limit up to 75 cents which is a cap that should help moderate that potential problem. The amendment included road signs designated to aid in the delivery of emergency services. Representative Powers and Representative Becker both had questions and Representative Mays gave the analogy that in Crawford County where his in-laws live, if his father-in-law had a heart attack that the ambulance would have had a hard time locating their home if they did not have a signpost at the corner of every section. Senator Karr replied that in many of the counties they are just now trying to put names on the road and streets so that a system is established. The signs are critical in order to make the 911 work. Representative Mays said that this could be pretty expensive for a large county, and Senator Karr said that each county would just have to do what it could afford because this is a limited amount of moneys. Senator Karr closed by saying that the Commissioner in Marion County would appreciate the committee's favorable consideration of **SB 409**.

Chairperson Glasscock called the committee's attention to Rep. McClure's written testimony which Rep. Thimesch said that he was asked by her to read. Rep. McClure was unable to be present because she is on another committee which meets at 1:30, too. Rep. McClure's testimony said that she represents five rural counties, and now that they have 911 and will soon have cellular 911, each rural resident has been assigned a very detailed address. Signs are needed on all these county roads to help the emergency vehicles and fire fighters find these people's new addresses. Part of her testimony included a copy of a letter from the administrator of Russell County which tells about the Attorney General's ruling and the desperate need in their county to have this. (Attachment 2.)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 1, 1996.

Chairperson Glasscock called Rob Hodges, Kansas Telecommunications Association, who also testified in the Senate Local Government Committee in support of **SB 409**. He stressed that the Senate amendment addressed some of the questions that have already been raised by the Committee. The amendment will make sure that road signs acquired or installed under this act will be designed to support the emergency telephone service efforts in the jurisdiction. He pointed out that each of the other three items for which 911 tax money can be spent is specifically restricted to those expenditures that support the emergency telephone service. During the discussion, Representative Becker asked how many people living in Kansas do not have 911 service. Mr. Hodges said that he did not know, but would try to find the answer to Rep. Becker's question. Representative Powers expressed some concern and said that he hoped that caution would be used on how the money is spent. Mr. Hodges said that Rep. Powers' concern for caution was shared and that was why the amendment was adopted. Representative Thimesch asked if Mr. Hodges had any kind of estimate on how many counties are left in Kansas that need these signs. (Attachment 3.)

Representative Sloan made a motion to amend SB 409 in line 35 to take effect upon publication in the Kansas Register instead of the statute book. Representative Becker seconded. Representative Mays asked the question as to why this is being done other than the fact that Senator Karr has asked for it. It was explained that the money was sitting in a pool now so it may as well be spent on signs to help emergency units. Motion passed.

Representative Becker made a motion to amend line 32 following emergency service, each sign should have printed the phrase, "in case of emergency call 911." For lack of a second, the motion died.

Representative Mays made a motion to pass SB 409 out of committee as amended marked favorable for passage. Representative Feuerborn seconded. Motion passed.

Chairperson Glasscock recognized Representative Adkins for a courtesy bill introduction. He said that he comes from Johnson County and cellular service is certainly an increasing area of industry there, but a lot of open spaces also coincide with municipal facilities. As a result of that, Southwestern Bell and other cellular services that locate these monopole sites are often locating these sites adjacent to public facilities. In the city of Leawood, for example, our Police Department has a monopole cellular site located on that building. The city of Prairie Village has the same thing. The Water District has been approached about having monopoles located on water towers. The difficulty is that in Kansas, our property tax laws do not have what is called a deminimis exemption. In other words, the placement of any private use on a public facility defeats the tax exempt status of that facility. So one might very easily argue that the placement of a Southwestern Bell cellular site at the Leawood Police Station would render the entire tract of land on which the police station sets subject to taxation. Representative Adkins asked the Local Government Committee to introduce a Committee bill that essentially would carve out that exemption within our public property tax exemption to indicate the location of a cellular communication monopole and adjacent structures do not defeat the tax exempt status of publicly owned tracts. Representative Becker moved that the Committee introduce such a bill, and Representative Mays seconded. Motion passed.

Chairperson Glasscock recognized Representative Tomlinson, subcommittee chairperson, who had several bills to introduce. The first bill is a new piece of legislation that prohibits the Department of Human Resources from closing down sites based on OSHA regulation that are not passed through the rules and regulations process as required by state law. Rep. Tomlinson said that the Kansas League of Municipalities asked for this piece of legislation, and the local regulations chair thought it was a wonderful idea. Representative Miller moved that this bill and that others that the subcommittee recommends be introduced, and Representative Powers seconded. Motion passed.

Chairperson Glasscock introduced Dr. H. Edward Flentje, Professor of Public Administration, Wichita State University, who was invited to speak to the committee in general terms about the issues surrounding the charge given to Subcommittee 1 and broader issues that might be of interest to the committee. Dr. Flentje talked mostly about obsolete state mandates on cities and counties in Kansas. He showed a chart which spoke to the accumulation of state mandates from 1861 until the beginning of the 1994 legislative session. Dr. Flentje challenged the committee to breathe new life into the constitutional ideal of self government. He said the 135th anniversary of the state might be a good time to accept the charge and see if the committee could fight the trend. (Attachment 4.)

Dr. Flentje said that he went through the 900 or so mandates and identified 259 which are compiled on the list given to Chairman Glasscock. He stressed that this was nothing more than his opinion about what is obsolete. His advice was that if the committee or others want to take this up to not do it piecemeal but to sunset in a rather broad way mandates at a certain date and then create a process for reviewing those mandates. He suggested listening to local and state officials and folks who have an interest in preserving some of these

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT, Room 521-S Statehouse, at 1:30 p.m. on February 1, 1996.

and simply keep those that should be continued.

Representative Tomlinson said that the biggest problem is that there is not time during the session to do this tremendous task, but perhaps it would be possible to have an interim committee study these obsolete mandates. Mike Heim of the Research Staff said a repealer bill would make it simpler in terms of drafting and then each section repeated with a sunset. When you get a repealer bill with a delayed effective date, you might have a dozen bills that would repeal 200 statutes and delay the effective date to July 1, 1997 instead of July 1, 1996. This could be used as a vehicle and the study could be requested. Perhaps a group could be formed or perhaps the League of Municipalities or Association of Counties would be interested.

Chairperson Glasscock asked Chris McKenzie, Executive Director of Kansas League of Municipalities, if he would like to address the committee. He was asked if the thought of repealing these mandates struck terror, and he said that it did not. He also said that it would be a huge task for the League, but one that might prove to be interesting. He said that philosophically he shared the same philosophy. Chairperson Glasscock asked Mr. McKenzie if the League would participate in this kind of endeavor, and he said that they would certainly want to be involved as a matter of self-survival to make sure that things were not done that would be indirectly damaging to cities and counties.

Chairperson Glasscock reminded the committee that when the committee first came together last year, one of the concepts that the Chair wanted to pursue during the course of the term was to begin the process of looking at what was not needed and to focus the committee on trying to pull out of the statute books rather than focusing primarily on putting into the statute books. He said he felt the committee did a good job last year in removing from the statute books. He said he wants the committee to stay committed to the concept and to understand that important work can be done to change the course of the relationship between the state and local units of government. Chairperson Glasscock asked the committee's indulgence for the Chair to perhaps visit with Chris McKenzie and Dr. Flentje to conceptualize a summer or fall interim committee and charge that committee to bring back to this committee a report before the end of the session. He said that he hoped the committee could have a positive impact past its time.

The meeting adjourned at 3:05 p.m.

The next meeting is scheduled for February 6, 1996.

LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: Thursday, February 1, 1996

NAME	REPRESENTING
Ed Heutz	himself
Rob Hodges	KTA
Connie Bayton	KFB
Gary H. Burton	KFB
Dubler, Kueser	KFB
Sail Kuser	KFB
J. Brandberry	City of Overland Park
Lina Brown	John Peterson Assoc.
Loch Owens	KCWA
Justin Cudde	Intern for Rep. Jim Morrison
Gerald Ice	KFB
Robert L. Kuser	Kansas Farm Bureau
Phillip J. Cole	Self.
LaShonda Flanagan	Rep. Bimlorick Hemerson's Intern
William J. Lumbelin	Self
Bill Mannus	SELF
Rep. Adkins	
Sen. Kam	

January 23, 1996

Dear Mr. Chairman and Members of the Local Government Committee,

I'm Linda Peterson Marion County Commissioner. I want to thank you for the opportunity to speak to you in support of Senate Bill 409 concerning use of 911 fees.

Senate Bill 409 would enable counties to use the 911 fees collected on phone bills to be used for the cost of signing rural roads. The past Attorney General had ruled that the present language does not allow counties to use the 911 fees for rural address signs.

Rural addressing is done as part of the enhanced 911 program. I feel that all the costs related to 911 should be paid from the 911 fee already collected.

The installation of rural addressing signs will greatly help our Emergency Medical Service, Fire, and Law Enforcement personnel respond to emergency calls.

Our county budget like the State budget is tight and therefore we don't have extra money available for this purpose. The adoption of this bill will not cost the State anything and it will keep the county from adding a mill or more to the property tax for rural address signs.

Linda D. Peterson
Marion County Commissioner
Rt. 2, Box 34
Burdick, KS 66838
913-983-4353

House Local Government
2-1-96
Attachment 1

LAURA L. McCLURE
202 SOUTH 4TH
OSBORNE, KS 67473
(913) 346-2715



REPRESENTATIVE, 119TH DISTRICT
STATE CAPITOL
ROOM 278-W
TOPEKA, KS 66612-1504
(913) 296-7680
1-800-432-3924

TOPEKA

HOUSE OF
REPRESENTATIVES

February 1, 1996

Local Government

SB 409

Concerning emergency telephone service; relating to the emergency telephone tax and the use of the proceeds thereof.

Chairman Glasscock and members of the Committee, thank you for the opportunity to submit testimony on SB 409. I apologize for not being able to present this testimony myself, I serve on the Telecommunications Committee which also meets at 1:30.

I've attached a copy of the bill I had drafted this year to allow counties to use monies collected from the emergency telephone tax fund to purchase and install road signs. I held my bill up after reading about SB 409 in the Senate Calendar.

I represent five rural counties. Since they now have 911 and will have cellular 911 in the near future, each rural resident has been assigned a very detailed address. Signs are needed on our country roads to help the EMT's and firefighters find these residents by address. Signs will also make it easier for people to report fires or accidents when using a cellular phone.

According to two Attorney Generals Opinions money from the emergency telephone tax fund can't be used to purchase and install road signs. SB 409 will allow counties to use this money for signs.

Please support SB 409, if you have any questions please give me a call.

Thank you.

A handwritten signature in blue ink, appearing to read "Laura L. McClure". The signature is fluid and cursive, written in a professional style.

I've also attached a letter from one of the counties I represent, Russell County. It explains the problems they face and why signs are so important.

House Local Government
2-1-96
Attachment 2

AN ACT concerning emergency telephone service; relating to the use of emergency telephone tax revenues; amending K.S.A. 12-5304 and repealing the existing section.

5 RS 1594

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 12-5304 is hereby amended to read as follows: 12-5304. (a) Any governing body imposing the tax authorized by K.S.A. 12-5302, and amendments thereto, may contract directly with the provider of the emergency telephone service or may contract and cooperate with any public agency or with other states or their political subdivisions or with any association or corporation for their political subdivisions or with any association or corporation for the administration of emergency telephone service as provided by law.

(b) Funds collected from tax imposed pursuant to K.S.A. 12-5302, and amendments thereto, shall be spent solely to pay for: (1) The monthly recurring charges billed by the service supplier for the emergency telephone service; (2) initial installation, service establishment, nonrecurring startup charges billed by the service supplier for the emergency telephone service; (3) charges for capital improvements and equipment or other physical enhancements to the emergency telephone system; ~~or~~ (4) costs of acquiring and installing signs to identify streets and highways in order to facilitate timely response to calls using an emergency telephone service, including payment of such costs incurred before the effective date of this act; or (5) any combination thereof.

Sec. 2. K.S.A. 12-5304 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

RUSSELL COUNTY

PO BOX 113 RUSSELL, KS 67665 Phone (913)483-3418 Fax (913)483-5725

January 31, 1996

To: Laura McClure

We have prepared some information hoping this will help the local Government Committee on Thursday in their discussion of Senate Bill 409. We feel that it is very important to be able to use the 75 cent telephone tax for the signing of the rural areas for 9-1-1 in Russell County. I think we have put together some very good reasons and attorney general opinions why this should be allowed. We feel that signing of the rural areas in Russell County for 9-1-1 purposes is as important as any other function or equipment that we use for 9-1-1.

First of all, quoting a past attorney general's opinion, "equipment used to . . . relay or dispatch emergency information to response units may be purchased with funds raised pursuant to K.S.A. 1989 Supp.12-5304". Many incidents occur in the rural parts of the county that require the response of emergency units such as EMS and/or fire departments. Some of these include the Russell City Fire Department who is not required to be familiar with the rural parts of the county. These people often have to travel at a high rate of speed with many things to worry about including the location of the incident. This is compounded especially by incidents that occur at night when it is more difficult to see landmarks, cross-streets, and the lay of the land to determine locations. The installation of street signs would greatly reduce this difficulty in finding locations.

According to Kansas State statute 12-5301, "emergency telephone service means a telephone system utilizing a single three digit number '911' for reporting police, fire, medical or other emergency situations". Numerous times 9-1-1 has been called to report automobile accidents, ambulance calls, and fires by people that are not familiar with our county. When asked where the location of the incident is or even where they are located (if calling from a cellular phone) they are unable to give the location as there are no street signs. With street signs in place the caller would be able to give the vital location information so that response units can be quickly and properly dispatched to the correct location.

According to another past attorney general's opinion, "the common meaning of the term 'emergency telephone system' would seem to include any item which has regular interaction with the other components of the system and which contributes to the common purpose of the system". Assuming that the above mentioned opinion is correct, it would hold true that the 75 cent phone tax should be used to purchase street signs for the county as they would interact regularly with the other 9-1-1 components and they would contribute to the common purpose of the system by allowing Russell County emergency response units to worry about the task at hand--saving lives.

Sincerely,

Russell County



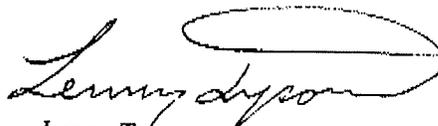
Greg Rose

9-1-1 Director



Tim Holmes

Chairman of the 9-1-1 Advisory Board



Lenny Tyson

Public Services Administrator



Legislative Testimony

Kansas Telecommunications Association 700 SW Jackson St., Suite 704, Topeka, KS 66603-3758 V/TTY 913-234-0307 FAX 913-234-2304

Testimony before the House Committee on Local Government

SB 409

February 1, 1996

Mr. Chairman, members of the committee, I am Rob Hodges, President of the Kansas Telecommunications Association. Our membership is made up of telephone companies, long distance companies, and firms and individuals who provide service to and support for the telecommunications industry in Kansas.

I appear today in support of SB 409. The KTA testified before the Senate Committee on Local Government and successfully sought a friendly amendment to the bill. The amendment appears on lines 30 and 31.

The amendment will make sure that road signs acquired or installed under this act will be designed to support the emergency telephone service efforts in the jurisdiction. You will note that each of the other three items for which 911 tax money can be spent is specifically restricted to those expenditures that support the emergency telephone service.

We hope that this committee will report this bill favorably for passage, as amended.

House Local Government
2-1-96
Attachment 3

Testimony to Committee on Local Government
Kansas House of Representatives

by
H. Edward Flentje
February 1, 1996

I was asked to appear here today and comment on obsolete state mandates on cities and counties in Kansas. This request is the result of a study of state mandates I conducted last year.

This study identified over 900 state mandates on cities and counties in Kansas. My own conclusion is that approximately 100 of these mandates represent important public policies governing state-local relations in which the State of Kansas has a compelling interest. Another 250-300 of these mandates are obsolete, possibly important when they were adopted but out of date and irrelevant today. The balance of the mandates, over half of the total, represent state paternalism, in other words, mandates based largely on the idea that state policy makers know best about what city and county governments should do and how they should do it.

Let me be clear about my bias here. I embrace language in the home rule provision of the Kansas constitution which states: "Powers and authorities granted to cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self government." State lawmakers wrote this same language into state statutes providing home rule powers for counties.

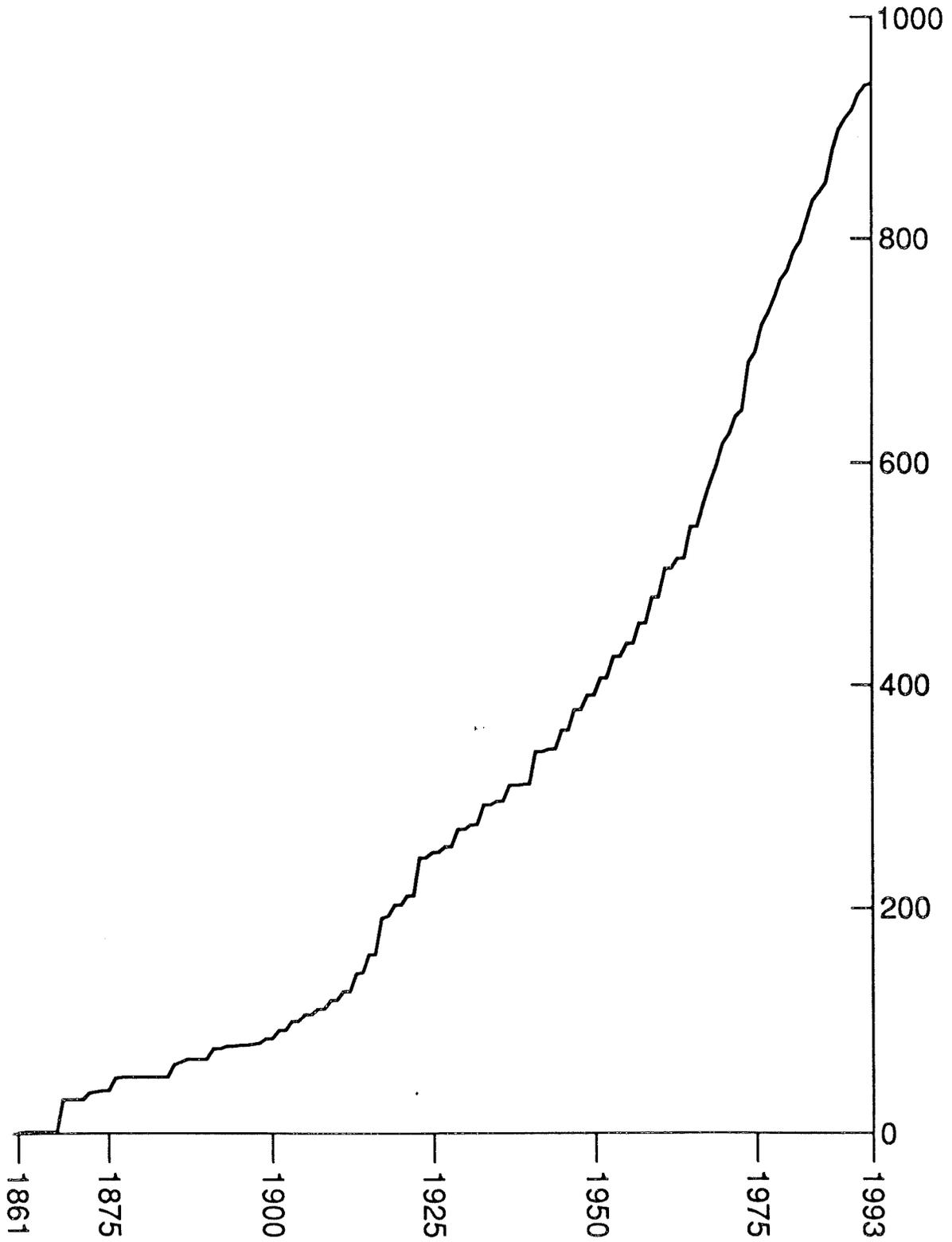
I have become convinced that the muddle of authority and responsibility between national and state governments and between state and local governments has contributed substantially to public disenchantment with government. Self government has deteriorated as the national government has sapped authority from the state and local levels, and as the state government has eroded local authority.

I would challenge this committee to breathe new life into the constitutional ideal of self government. Take on this assignment with vigor and advocate the objective of assuring the largest measure of self government, begin sorting out the division of labor between state and local governments, and clarify state authority from local authority. I can think of no more important challenge to this committee, and indeed, to the legislature as a whole. No committee of the legislature has clearer jurisdiction to address this issue than does this committee.

Flentje is a professor of public administration in the Hugo Wall School of Urban and Public Affairs, Wichita State University.

House Local Government
2-1-96
Attachment 4

Figure 1: Cumulative Number of State Mandates on Cities and Counties in Kansas



WICHITA STATE UNIVERSITY

Hugo Wall School of Urban & Public Affairs

October 25, 1995

The Honorable Tim Emert
Senator, 15th District
P.O. Box 747
Independence, Ks 67301

Dear Senator:

Last spring you wrote and inquired about my inventory of state mandates on cities and counties in Kansas, and particularly my reference to those mandates which are "archaic and obsolete." At that time I indicated to you that, while I estimated as many as 300 mandates to be obsolete, I had not specifically identified such mandates but felt I could do so with a little time. Then, this summer in response to your kind assistance to me on the subject of indigent defense, I promised to take the time to identify obsolete mandates—at least those judged obsolete from my point of view. This note is in response to that commitment.

I have reviewed the inventory of state mandates on cities and counties compiled last year and identified 259 mandates which in my judgement may be categorized as obsolete. These mandates are compiled on the 181 worksheets which are enclosed and are derived from the more than 500 statutory citations listed on the worksheets.

Obviously, what is obsolete to me may not be obsolete to you or to another state or local official. The definition of obsolescence I tried to apply was from Webster, "outmoded in style, design, or construction." Some mandates are clearly obsolete, for example, the construction and location of air markers (K.S.A. 3-501) adopted by the legislature over fifty years ago and likely forgotten by everyone since then, or burial and payment of burial expenses of civil war veterans (K.S.A. 73-301-303). Others may be out of date but still in use by some jurisdiction somewhere.

My advice, if you desire to pursue the matter, is to sunset obsolete mandates as of a date certain, say June 30, 1997, and allow state or local officials the opportunity to identify mandates that should not, for whatever reason, be eliminated. This kind of sunset would force a purge of the statute books yet provide an escape valve for continuation or possibly revision of state laws deemed essential.

House Local Government
2-1-96

While on the subject of obsolete state laws, I cannot resist commenting on the 300-plus pages of state statutes found in chapters 13, 14, and 15 of Kansas Statutes Annotated, applying respectively to cities of the first, second, and third class. I have described these chapters as a legislative bonepile, once full of life in form and substance, now a chaotic heap of lifeless rubble. For example, fifty pages of this total, written originally in 1907, apply to cities of the first class with the commission form of government (we have no such cities in Kansas and likely never will). Since the adoption of home rule for cities in 1960, these chapters have seldom received legislative attention. However, I learned in compiling the inventory that some city officials want these lifeless statutes left intact because they provide an easy avenue for applying home rule powers, in other words, 300 pages of nonuniform statutes from which a city may exempt itself on almost any subject. A few trees might be saved by wiping these obsolete statutes off the books and allowing cities to exercise home rule powers through local legislation. As you might imagine, some city officials disagree with this point of view.

Whatever the case, I have concluded that state statutes seeking to regulate cities and counties deserve a careful review, in some cases, elimination, in other cases, an overhaul. I wonder if the approach taken with the sentencing commission would not be an effective vehicle for such a review. In other words, the legislature could charge an independent commission with this assignment; the commission would report back to the legislature within two years and then go out of business (unlike the sentencing commission).

I encourage your interest in this matter and offer my assistance. Nothing will happen unless someone forces the issue on the public agenda. I would welcome the opportunity to discuss the subject further at your convenience.

Sincerely,



H. Edward Flentje
Professor