

**Kansas Association of Counties
2010 Legislative Policy Statement**

Federal Legislative Priorities

Medicaid Reform. We support Medicaid reform that maintains the federal government's primary responsibility for providing health care to the country's most vulnerable citizens. Medicaid must maintain a robust set of both mandatory and optional services to meet the full range of needs of our citizens. Further, we oppose termination of Medicaid benefits when an individual is incarcerated in a county facility pre-adjudication. (2004)

Changes in Medicare for Ambulance Service Payments. The federal government pays for medically necessary ambulance services for Medicare patients. The Balanced Budget Act of 1997 requires ambulance services be listed on a national fee schedule to hold down Medicare costs. We support a general increase in Medicare funding in order to support the actual costs of ambulance service rather than shifting the costs for this vital health service to the local level. (2001)

Federal Legislative Policy Statements

Streamlined Sales Tax. We support federal legislation authorizing states to require retailers in other states to collect sales and use taxes on remote sales. Such federal legislation should not impose conditions on other states beyond the simplification requirements already contained in the Streamlined Sales and Use Tax Agreement. We oppose language concerning simplification of telecommunications taxes that would threaten both county revenues and successful implementation of the Streamlined Sales and Use Tax Agreement.

We believe that the taxation of sales should be equal whether a sale takes place over the counter, by telephone, mail order, or the internet. States, counties and cities across America are losing billions of dollars in annual sales tax revenues because remote sellers are not collecting sales and use taxes on internet and mail order sales. Although state and local governments require taxpayers to calculate and remit use taxes on their purchases when sales taxes are not collected, there is currently no effective enforcement mechanism and many taxpayers do not even realize they owe a use tax.

We oppose any attempt by the telecommunication industry to streamline telecommunications taxes by having them collected at the state level. This could endanger our E-911 tax now sent to the Local Collection Point Administrators and remitted directly to the Public Safety Answering Points (PSAPs). (2003)

Withholding Tax Relief. We support federal legislation that repeals Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005, which

requires governments that spend more than \$100 million in procurements to withhold 3% from vendor payments for federal taxes, essentially conscripting county employees to serve as federal tax collectors. (2008)

Homeland Security Funding. We support the following principles with respect to the federal funding for homeland security:

1. States should have a coordinating role in developing plans to use homeland security funds, subject to stringent pass-through, timeline and collaboration requirements.
2. We support existing programs such as EMPG, Fire Grants, Byrne Grants, and LLEBG, and believe these programs should remain separate and adequately funded.
3. Congress and the Federal administration must allow greater flexibility under the various homeland security grant programs.
4. Federal grants and monies distributed to the state, which are to be share with local governments, should be split on an equitable and consensual basis. (2004)

Fair Labor Standards Act (FLSA) Exemption for Public Emergency Medical Service Personnel. In 1985, the U.S. Supreme Court ruled in the *Garcia* case that state and local governments are subject to the FLSA. Public sector employers were allowed to establish a 28-day work period for police officers and firefighters and are provided overtime compensation when the number of hours worked during a 28-day work period exceeds 171 hours for police and 212 hours for firefighters. Emergency medical service (EMS) personnel not working for fire departments are not adequately addressed in current law. Because many EMS personnel do not work for a fire department but instead work for a separate EMS agency, the partial exemption should be expanded to include EMS personnel. We support legislation extending the partial exemption from FLSA overtime requirements to EMS agencies. (2001)

Navigable Waters. We encourage Congress and the Federal administration to clarify that municipal streets and man-made ditches are excluded from the definition of “waters of the United States” and that such waters should be regulated at the local level. Additionally, we urge the federal government to recognize that the flow volume of storm water from development and the regulation of impervious surfaces are local land use issues, not within the purview of the federal government. We support the national policy goal of net gain/no net loss of wetlands and encourage a management approach that first avoids development of current wetlands, then minimizes wetland loss, then mitigates as the final alternative. We urge Congress and the Federal administration to provide additional funding for local governments to implement this national policy goal. (2008)

Restoration of Juvenile Accountability Incentive Block Grant (JABG) Funding. Community corrections agencies are statutorily mandated programs governed by local units of government and funded by the counties, the state and federal grants. We urge Congress to fully fund the JABG. (2005)

State Legislative Priorities

Countywide Local Sales Tax Authority. We support a change in the statutory authorization for countywide sales taxes from the current 1% general purpose cap to 2%, and an additional 1% authority for dedicated countywide purposes as defined by the board of county commissioners. Counties would be limited to a maximum sales tax of 3% with 2% of countywide general purpose sales tax revenue continuing to be shared with cities within the county and the 1% authority dedicated solely to county revenues. All countywide sales taxes would continue to require voter approval. (2007)

Continuation of E911 Fee. We seek to preserve the current levels of E911 funding. Changes in technology and equipment needs at the local level require continuation of the fee for seamless E911 services to continue. (2008)

Multi-Year State Comprehensive Transportation Program (CTP). The 1989 and 1999 comprehensive highway/transportation programs were established with significant support from counties. We support enactment of a new multi-year comprehensive transportation program. (2005)

State Legislative Policy Statements

Governmental Organization

Local Government Services. We oppose any legislation requiring counties to pay higher fees for services than those charged to private entities or other public agencies for the same services. (2008)

Home Rule. We support constitutional home rule for counties and oppose any erosion of existing statutory home rule authority. We support counties using their current home rule powers when applicable rather than seeking specific legislative remedies. We will seek introduction of legislation granting constitutional home rule when appropriate. (1998)

Counties' Right to Use Eminent Domain. We oppose any legislation that would remove or limit counties' use of eminent domain. We support the ability of counties to use eminent domain for economic development purposes while balancing private property interests and the welfare of the community at large. (2005)

Electronic Governance and Service Delivery. We recognize that sweeping technological changes in society afford counties both new opportunities and

challenges for governance and service delivery. We support a balanced perspective on the issues of privacy, cost recovery, as well as access to and release of electronic data compiled by counties given our concern that programs will be used by for-profit ventures without proper remuneration to counties. (2001)

Consolidation. We oppose mandatory consolidation of local government units and/or services. Counties presently share numerous services with cities and other counties, but they should not be forced to do so. We support legislative changes that remove statutory limitations to consolidation of functions or services. (1998)

Open Meetings. We believe that openness in county government is essential to building public confidence. However, we believe there are times when privacy or other legitimate reasons require executive sessions. We oppose legislation requiring executive sessions to be recorded because it would impose unreasonable demands on elected and appointed officials and raise questions as to the custody of the recordings. (2001)

Open Records. We support retention of current exemptions to the Kansas Open Records Act. (2001)

Records Storage. We support legislation allowing local governments authority to determine the best method of records storage. (2003)

Public Health and Safety

Access to Mental Health Services. We support access to state psychiatric hospital beds by clients of the mental health system, or an alternate plan requiring the State to assume fiscal responsibility for these clients if all state hospital beds are filled. The KAC also supports state funding to move state psychiatric beds for children back into local communities. (2005)

Community Developmental Disability Organizations (CDDOs)/Community Mental Health Centers (CMHCs). CDDOs and CMHCs should continue to be designated by boards of county commissioners, and determination of the appropriate structure for services to Kansans with developmental disabilities or mental health needs should be determined locally or regionally. (2004)

Increased State Participation in Local/State Partnership for Healthy and Safe Communities. Healthy and safe communities are a priority of the Kansas Association of Counties and our members. The State of Kansas, as a partner with counties in creating and ensuring healthy and safe communities, should assume its share of the financial responsibility for our shared goal. Increasingly, counties are asked by the state to assume responsibility for basic services necessary to ensure the well-being of citizens with less commitment by

the state. The state has decreased funding to local government, endangering the level and quality of services that can be provided. (2001)

We support state funding at the levels necessary to sustain the following programs:

- **Community Mental Health Services.** We support full funding in state grants for community mental health services, allowing community mental health centers (CMHCs) to annually serve 60,000 uninsured and underinsured county residents not eligible for Medicaid. State licensing requirements dictate that CMHCs provide services to anyone regardless of their ability to pay, resulting in an unfunded mandate from the State to counties to provide community mental health treatment.

In addition, individuals with mental illness who cannot be treated in their communities because of no insurance or no state grant funds may end up in contact with law enforcement, jails, hospital emergency rooms, state psychiatric hospitals or dead, all of which impact county governments. Individuals who are able to be treated in the community will have improved quality of life and ultimately be more productive citizens. (2008)

- **Centers for Disease Control (CDC) Preparedness Grant.** We support the Kansas Department of Health and Environment's budget request for state matching funds necessary to secure a preparedness grant from the Centers for Disease Control and Prevention. (2008)
- **Community Corrections.** We support full state funding to local communities for mandated community corrections programs. For state aid to cover the actual costs of services, the projected average daily population must be multiplied by a unit cost adjusted annually for inflation and for variable transportation costs among agencies. The amount needed to provide adequate supervision of offenders in the Intensive Supervision program should contain a cost-of-living increase and take mileage into consideration. We do not oppose consolidation of Community Corrections and Court Services programs. (1998)
- **Developmental Disability Service Providers.** As the state has shifted responsibility and funding for these services to counties, actual costs of providing services to the most vulnerable populations have not been addressed by the Legislature. (2001)
- **Local Health Departments.** We support increased state funding of local health departments. County health departments have many mandated but unfunded functions that compete for limited resources. One significant expense is the purchase of vaccine. Immunizations are directly dependent on funds available for vaccine purchase by local health

departments. These costs rise every year with flat state funding, and thus compete for funding of other health department operations. (2005)

- **Low-Birth-Weight Infants.** We support increased state funding to reduce infant mortality attributable to low birth weight (LBW) babies born to high-risk moms. The two-fold approach to reduce infant mortality and LBW entails 1) ensuring first trimester prenatal care by increasing the number of prenatal care providers in underserved areas and 2) increasing the number of home visits to high-risk moms through Healthy Start programs. (2008)
- **Incarcerated Juveniles.** The reimbursement rate paid by the state is less than the actual expenses incurred by the detention center. The Juvenile Detention Facility Fund (JDFF) established in part to provide grant funds to help juvenile detention centers with remodeling, construction and operating costs has instead been used by the state to pay for the per diem rate and to make bond payments for the construction of regional juvenile detention centers. (2001)
- **State Prisoners in County Jails.** This population continues to escalate but is not compensated by the state reimbursement rate. In addition, the reimbursement is often not made in a timely manner. This is another area where the legislature continues to shift the costs to the county. (2001)
- **Sexually Violent Predators.** We support full funding of the state's responsibility for committing sexually violent predators. (2004)

CMHC Limited Liability. We support limited liability protection for community mental health centers (CMHCs) as public providers. We support an amendment to the Kansas Tort Claims Act to include CMHCs as agents of the state, political subdivision or municipality because a significant portion of funding of CMHCs is derived from public funding. (2006)

Regionalization. We support the repeal of statutory or regulatory barriers to regionalization and oppose any additional barriers to regionalization. Declining rural county populations and resources, along with increasing costs of services makes regional delivery of services necessary in many instances. We believe that regionalization of service delivery should be addressed at the local level and not mandated by the state. (2005)

Repeal of Obsolete Statutes Addressing Health Issues. We support repeal of K.S.A. 65-301 and 65-302 dealing with infectious disease. The repeal would make these statutes consistent with earlier statute repeals and would remove liability of counties for actions taken by cities without approval of county officials. (2005)

Collection of Fees and Expenses by Garnishment. State law allows the award of fees and expenses in child-in-need-of-care cases. However, the law does not allow the garnishment of wages and attachment, if necessary, to collect the fees and expenses. We support legislation which would allow garnishment of wages and attachment in these instances. (2001)

Environment and Land Use

Energy Policy. We seek a comprehensive and integrated approach to energy at the federal and state level that balances increased domestic oil and gas production on public and privately owned lands with the accelerated development of alternative and renewable energy resources, clean energy, nuclear energy, energy efficient programs, ethanol and clean coal technologies. We support a state energy policy that promotes development of a balanced portfolio of affordable energy, blending renewable resources with clean coal technologies and encouraging economic development by assuring that the regulatory process is clearly defined and implemented. We support legislation that also gives counties specific authority to receive payment in lieu of tax monies when energy companies locate in a specific county. (2005)

Preservation and Protection of Water Supplies. We support reasonable, scientifically-based regulations to protect the quality and quantity of water. Such regulations should take into account cost-benefit analyses and should not be unduly restrictive. In addition, we support legislation and regulations to protect sensitive or important groundwater areas from possible contamination by humans, animals or other sources. We also support efforts at all levels of government to protect and preserve water resources. We support partnerships between local, state and federal governments aimed at remedying sedimentation and other problems that affect the public's access to water. (2001, 2008)

Local Environmental Protection Program (LEPP). We support continued funding of the Local Environmental Protection Program by the Kansas Water Office to continue local public health and county water quality programs. We oppose the transfer of LEPP funding from the State Water Office to the KDHE General Fund Budget. (1998)

Notification for Zoning Actions. We support legislation permitting counties to use computer assisted mass appraisal (CAMA) records or property tax rolls as a basis to generate mailing lists of landowners within the notification areas of a proposed zoning action. This would replace the current requirement of obtaining certified lists of landowners and their mailing addresses from an abstractor. (2004)

Noxious Weed Law. We believe that the eradication of noxious weeds is important to maintain the viability of Kansas' agricultural economy, protect property values, preserve our natural resources and protect the public health and safety. We support locally-determined cost-share incentives and control

practices (chemical, cultural and/or biological) and a state noxious weed list determined by legislative enactment. We support strengthened enforcement strategies and greater collaborative efforts involving counties, the State Department of Agriculture, KSU Research and Extension and others to find better methods for controlling and eradicating noxious weeds. In addition, we urge the State to comply with the state noxious weed law and adequately fund the control and eradication of noxious weeds on state properties. (1998)

State Parks: We support the full funding of state parks through the State General Fund. (2005)

Burning of Clean Wood. We support changes in legislation or KDHE regulations allowing counties to burn clean wood in city or county burn piles where trees, stumps and brush are burned. (2003)

Local Regulation of Land Use. Local government's right to decide local land use is fundamental to good government. We strongly support retaining and enhancing the authority of counties to regulate land uses. (2009)

Land Surveys. We support legislation that would update laws relating to land surveys and the review of surveys. We also support legislation that allows counties an option to review private surveys prior to recording. We oppose outright repeal of all laws relating to monumentation and survey reviews. (2009)

Taxation, Finance and Infrastructure

Alternative Taxing Authority. There is great stress on the property tax as a means of financing county services. There is also tremendous diversity among counties' economic bases, which makes a uniform approach to funding local services infeasible. As such, we support legislation to provide a statutory menu of taxing and revenue options to finance county services which could be exercised by boards of county commissioners on a county by county basis. (2005)

Assessed Valuation Limitation. We oppose any constitutional or statutory amendment limiting the change in assessed valuation for a parcel from one appraisal year to the next. Such proposal would create unnecessary inequities among parcels and would unnecessarily shift the property tax burden to older, mature properties. In the past decades, the state and counties have expended a tremendous amount of political and fiscal capital to make the property tax system more modern and reflective of economic realities. To impose an artificial cap on the valuation of any parcel would negate much of this progress. (1998)

Taxpayers Bill of Rights (TABOR). TABOR proposals are an affront to our system of representative democracy and the right of state and locally elected officials to govern in a manner needed to provide necessary services. Further, TABOR would weaken the financial health of county government at a time when it is needed most. We strongly oppose any constitutional or statutory proposal

which would require any supermajority requirement for taxation at the state or local level. We also oppose any proposal which would diminish or restrict the authority of legislators, boards of county commissioners, and other governing officials to manage the financial resources under their stewardship and care including lobbying efforts. We believe that it is a fundamental right for local governments to hire persons to inform and advocate for their positions in the legislative process. (2006)

Taxation of 16M and 20M Trucks. We support legislation that would fully incorporate 16M and 20M trucks into the VIPS System for taxation purposes. (2008)

Rails to Trails. We support legislation granting specific remedies to counties if Rails to Trails groups fail to comply with the law. This legislation would include statutory language specifically makes Rails to Trails land taxable. It would also broaden the ability of the Attorney General to seek compliance on behalf of counties. (2003, 2008)

Stored Natural Gas. We support legislation defining public utilities to include entities that “own, control, and hold for resale stored natural gas in an underground formation in this state.” (2008)

Funding State Mandates. We oppose any new unfunded mandates by the State. In addition, unfunded mandates now in existence should be funded by the State in recognition of the state/local partnership. (2001)

Full Funding of State Revenue Sharing (Demand Transfer Programs). The sharing of state sales and compensating use tax revenues through the Local Ad Valorem Tax Reduction Fund (LAVTRF) and City and County Revenue Sharing Fund (CCRS) and the full allocation of motor carrier property taxes to the Special City and County Highway Fund (SCCHF) all recognize a historic partnership in service provision between the State and counties. In the past several years, the State has eliminated the LAVTRF and CCRS transfers and capped the transfer of motor carrier property taxes to the Special City and County Highway Fund. These actions have shifted the burden of financing county services to other county sources, including local property taxes. We strongly urge full statutory funding of all three demand transfer programs at the earliest possible time. (2001)

Machinery and Equipment Tax Exemptions: We will continue to monitor the impact of statutory tax exemptions for new machinery and equipment, as well as the “slider” payments to partially mitigate the loss of property tax revenues. (2007)

Tax Base Exemptions. We oppose any further exemptions to the ad valorem property tax base or the state/local sales tax base. New exemptions only shift the burden of financing vital services to an increasingly narrow tax base. (2001)

Tax Equity for Independent Elderly Housing. We oppose the current statutory exemption from property taxation of independent, elderly housing units owned by non-profit retirement communities. (2001)

Mortgage Registration Tax. We support the continuation of this tax. The mortgage registration tax is a valuable and fair intangible tax and an important source of revenue to counties. Additionally, we support a statutory change requiring that fees be paid at the time all documents, including federal tax liens or releases, are presented for recording. (1998)

Intangibles Tax. We support legislation providing for the electronic filing of intangibles tax forms with other income tax forms. (2003)

Spending Lid. We strenuously oppose any constitutional or statutory amendment to impose spending limitations on county governments. Budget and spending decisions of county governments should be made by the elected board of county commissioners, which is directly accountable and accessible to constituents. Such limitations could directly conflict with counties' home rule powers and would constitute an unnecessary infringement on local control. (1998)

Local Option for PEERA. We oppose any legislation that would remove the local option provision for the Public Employer-Employee Relations Act (PEERA). We oppose any federal or state mandate that would require collective bargaining at the local level. (2005)

Contract for Road & Bridge Work. We support the existing statutes (K.S.A. 68-520, 68-1104, and 68-1116) as they apply to the board of county commissioners' authority in constructing, servicing, repairing or maintaining county roads. (1998)

Right-of-Way Management. We vigorously oppose restrictions to counties' ability to manage their rights-of-way or to recover public costs incurred when such property is necessarily used by regulated and non-regulated utilities or service providers. The management of public rights-of-way is a fiduciary responsibility of county government. (2003)

Threshold for Surety Bond Posting on County Construction Projects. Current state law (K.S.A. 19-214 and 68-521) provides that counties awarding contracts in excess of \$25,000 for the construction of county facilities must require the person or firm to whom the award is made to provide a surety bond in the amount of the contract. The surety bond requirement of the current law

discourages small contractors from bidding on relatively small construction jobs of counties, and conflicts with a general public construction law, which sets the threshold for requiring a surety bond at \$100,000. We support increasing the minimum threshold for the posting of a surety bond for such projects from \$25,000 to \$100,000. Raising the threshold of a surety bond would stimulate greater competition among contractors, thereby saving counties money, and harmonize the county law with the general public construction bond law. (2001)

Haul Roads. We urge the Kansas Department of Transportation (KDOT) to expand agreements to include compensation to any county that sustains any road damage due to the operations of a road construction contractor under contract with KDOT. (2001)

Recodification of Chapter 68 of Kansas Statute Annotated. We support continued rewriting of the county road statutes to modernize the language. (2003)

Property Tax Deferral. We oppose exemptions from property taxes on new residential property and oppose any delayed taxation on buildings or other structures classified residential. (2008)

Costs of Collecting Debts. We support legislation that allows a county to recoup the costs of collecting an unpaid debt by adding the costs of collection to the total debt. (2009)

County Treasurer's Motor Vehicle Registration Fee. We support legislation allowing county treasurers the option to charge a fee up to \$5 for motor vehicle registration at locations separate from the main office. (2009)

Competitive Bidding for Repairs, Emergencies. We support legislative changes to allow counties to make repairs costing more than \$25,000 to county buildings and building equipment without competitive bids. We also support changes in the competitive bidding statute to allow counties to waive all competitive bidding requirements if a public emergency exists. (2009)

Fee Sweeps. We oppose any legislation that sweeps fees intended for distribution to local government into the state general fund for use by the state.

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