

Senate Resolution 323 of 2010 Report

Study of Statutory Mandates Placed on Counties and Municipalities

Appendix B

State Mandate Provisions

Local Government Commission
General Assembly of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania

October 9, 2012

State	Constitution/ Statute	Key Language	Exceptions	Comments	Definition of Mandate
Alabama	Ala. Const. amend. 474, 621.	<p>“No law...whose purpose or effect is to provide for a new or increased expenditure of county funds...shall become effective...[on] the first day of the fiscal year next following the passage of such law...[unless]... (1) such law is approved by a resolution adopted by . . . the...governing body of the county affected thereby; or (2) such law...provides...the count[ies] with new revenues...sufficient to fund...new or increased expenditures.”</p> <p>Ala. Const. amend. 474.</p> <p>Unfunded mandates are not permitted unless “. . . approved by an ordinance enacted...by the governing authority...and only as long as, the Legislature appropriates funds for the purpose...and only to the extent and amount that the funds are provided, or until a law provides for a local source of revenue within the...[affected] municipality, county, or instrumentality...”</p> <p>Ala. Const. amend. 621(a).</p>	<ol style="list-style-type: none"> 1. Local law as defined in Alabama Constitution. 2. Required school board expenditures. 3. Newly defined crimes. 4. Mandates prior to 1998. 5. Federal mandates. 6. Acts adopted by 2/3 of voting members of each house of legislature. 7. Acts with an “aggregate insignificant fiscal impact’ on affected municipalities, counties, or instrumentalities. “Aggregate insignificant fiscal impact” means an impact of less than \$50,000/year. 8. Compensation for public officials. <p>Ala. Const. amend. 621(b).</p>	<p>According to the Association of County Commissions of Alabama, the amendments have been hugely successful.*</p>	<p>“No general law, or state executive order whose purpose or effect is to require a new or increased expenditure of funds held or disbursed by the governing body of a municipality or county, or an instrumentality thereof....”</p> <p>Ala. Const. amend. 621(a).</p>
Alaska	Alaska Const. art. 2, § 19.	<p>“The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.”</p> <p>Alaska Const. art. 2, § 19.</p>	<p>None.</p>		<p>“Local acts necessitating appropriations by a political subdivision....”</p> <p>Alaska Const. art. 2, § 19.</p>
California	Cal. Const. art. XIII B, § 6. Gov. Code tit. 2, (Fiscal Affairs), pt. 7 (State-Mandated Local Costs).	<p>“Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service....”</p> <p>Cal. Const. art. XIII B, § 6(a).</p>	<p>“(1) Legislative mandates requested by the local agency affected.</p> <p>(2) Legislation defining a new crime or changing an existing definition of a crime.</p> <p>(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.”</p> <p>Cal. Const. art. XIII B, § 6(a).</p>		<p>See “Key Language.”</p>

* Table format adapted from “Unfunded Mandates Overview,” Ten-County Budget Conference 2009, Breckenridge, Colorado, September 24, 2009. A asterisk denotes a direct quote from the cited source.

State	Constitution/ Statute	Key Language	Exceptions	Comments	Definition of Mandate
Colorado	<p>Colo. Const. Art. X, § 20(9). Colo. Rev. Stat. § 29-1-304.5.</p>	<p>“(9) STATE MANDATES. Except for public education through grade 12 or as required of a local district by federal law, a local district may reduce or end its subsidy to any program delegated to it by the general assembly for administration.” Colo. Const. Art. X, § 20(9). “No new state mandate or an increase in the level of service for an existing state mandate beyond the existing level of service required by law shall be mandated by the general assembly or any state agency on any local government unless the state provides additional moneys to reimburse such local government for the costs of such new state mandate or such increased level of service.” Colo. Rev. Stat. § 29-1-304.5(1).</p>	<ol style="list-style-type: none"> 1. Federal mandates 2. State or federal court orders 3. Modifications in school district financing 4. Mandates prior to 1991 5. Service level undertaken at option of local government 6. Order from the state board of education pertaining to charter school* 		<p>“‘State mandate’ means any legal requirement established by statutory provision or administrative rule or regulation which requires any local government to undertake a specific activity or to provide a specific service which satisfies minimum state standards including, but not limited to: [both defined ‘program mandates’ and ‘procedural’ mandates].” Colo. Rev. Stat. § 29-1-304.5(3)(d).</p>
Connecticut	<p>Conn. Gen. Stat. §§ 2-32a-2-32c.</p>	<p>“No public act which imposes a state mandate on any political subdivision of this state which requires the appropriation of funds for the budget of such political subdivision in order to comply with the provisions of such act shall be effective as to such political subdivision earlier than the first fiscal year of such political subdivision beginning after five months following the date of passage of such act.” Conn. Gen. Stat. § 2-32a. “Any bill reported by a joint standing committee of the General Assembly which may create or enlarge a state mandate to local governments...shall be referred...to the joint standing committee...relating to appropriations and the budget...unless...reference is dispensed with by a vote of...two-thirds of...the General Assembly. Any such bill favorably reported by said committee shall contain a determination...concerning...: (A) Whether or not such bill creates or enlarges a state mandate, and, if so, which type of mandate is created or enlarged; (B) whether or not the state shall reimburse local governments for costs resulting from such new or enlarged mandate, and, if so, which costs are eligible for reimbursement [and] the level [and] timetable for [the] reimbursement.” Conn. Gen. Stat. § 2-32b(d).</p>	<ol style="list-style-type: none"> 1. Orders issued by a state court 2. Legislation necessary to comply with a federal mandate <p>Conn. Gen. Stat. § 2-23b(2).</p>	<p>“... the issue of mandate relief is a matter of great urgency. Our towns and cities have expressed concerns for years that mandates without funding to back them up have costly consequences for local taxpayers.” Press Release, M. Jodi Rell, Governor of Connecticut, Governor Rell Joins Municipal Leaders to Discuss Mandate Relief, State Aid (Feb. 11, 2009).</p>	<p>“‘State mandate’ means any constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a state court and any legislation necessary to comply with a federal mandate.” Conn. Gen. Stat. § 2-32b(2).</p>

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Florida	Fla. Const. art. VII, § 18	<p>“No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest....”</p> <p>Fla. Const. art. VII, § 18(a).</p> <p>Mandates also include laws which reduce the authority to raise revenue or reduce the percentage of a state tax shared with counties and municipalities.</p> <p>Fla. Const. art. VII, § 1818(c).</p>	<p>“1. funds to offset the costs of implementing the law have been appropriated;</p> <p>2. the law was approved by a two-thirds membership vote of each house;</p> <p>3. the Legislature finds that the expenditure is required to comply with a law that applies to all persons similarly situated;</p> <p>4. the Legislature authorizes or has authorized a county or city to enact a funding source not available on 2/1/89; or</p> <p>5. the expenditure is required to comply with a federal requirement or entitlement which contemplates action by cities or counties.”</p> <p>Florida Association of Counties, <i>Finance and Tax: Unfunded Mandates</i>, n.d., <http://www.fl-counties.com/Pages/Advocacy/Finance Transportation and Administration/Finance and Tax/Unfunded Mandates.aspx> (August 5, 2010).</p> <p>Exemptions:</p> <p>“Laws adopted to require funding of pension benefits existing on the effective date of this section, criminal laws, election laws, the general appropriations act, special appropriations acts, laws reauthorizing but not expanding then-existing statutory authority, laws having insignificant fiscal impact, and laws creating, modifying, or repealing noncriminal infractions....”</p> <p>Fla. Const. art. VII, § 18(d).</p>		See “Key Language.”
Hawaii	Haw. Const. art. 8, §§ 4, 5.	<p>“Section 4. No law shall be passed mandating any political subdivision to pay any previously accrued claim.</p> <p>Section 5. If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.”</p> <p>Haw. Const. art. 8</p>	None.	See Sugano, Dean. 2001. <i>Federally Mandated State Programs during Fiscal Year 2001-2002</i> , Report No. 4, Honolulu: Legislative Reference Bureau.	Hawaii Constitution does not define “mandate.” “A federal mandate is a direct order, a partial preemption statute, or a grant-in-aid condition from the federal government that imposes direct costs on states and prohibits the use of cost-effective alternatives” (Sugano 2001, p. 2).

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Illinois	State Mandate Act, 30 Ill. Comp. Stat. § 805/1 et seq.	<p>“(b) It is the purpose of this Act:</p> <p>(1) to provide for the collection and periodic publication of information on existing and future State and federal mandates;</p> <p>(2) to enunciate policies, criteria and procedures to govern any future State-initiated specification of local government services, standards and employment conditions..., while avoiding the imposition of State standards upon essentially local responsibilities without appropriate reimbursement or other appropriate fiscal participation on the part of the State government; and</p> <p>(3) to provide for a review of existing mandates and an identification of the nature and magnitude of corrective action needed to produce a consistent and equitable framework of State-local relations regarding mandated services, standards, and expenditures.”</p> <p>30 Ill. Comp. Stat. § 805/2.</p>	<p><i>Exceptions</i> are numerous, including increased costs as a result of “mandates dealing with the organization and structure of local government or due process”, and the Steel Products Procurement Act. 30 ICS 805/6(a)(h).</p> <p><i>Exclusions</i> include a mandate that “(1) accommodates a request from local governments...; (2) imposes additional duties of a nature which can be carried out by existing staff and procedures at no appreciable net cost increase; (3)...provides offsetting savings resulting in no aggregate increase in net costs; (4) imposes a cost that is wholly or largely recovered from...financial aid; (5) imposes additional annual net costs of less than \$1,000 for each of the several local governments affected or less than \$50,000, in the aggregate, for all local governments affected.”</p> <p>30 Ill. Comp. Stat. § 805/8(a).</p>	<p>According to the United Counties of Illinois, the legislature passes bills explicitly stating: “statutory provisions notwithstanding, this language will become law” or “exempt from State Mandates Act.”*</p> <p>The Council is convinced that protection against unfunded mandates would be greater if expressed in the Illinois Constitution. Right now, the Act is a toothless tiger.*</p> <p>Section 805/8(b) of the Illinois Compiled Statute delineates the requirements for fiscal notes.</p>	<p>“‘State mandate’ means any State-initiated statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues, excluding any order issued by a court other than any order enforcing such statutory or executive action. State mandates may be reimbursable or nonreimbursable as provided in this Act. However, where the General Assembly enacts legislation to comply with a federal mandate, the State shall be exempt from the requirement of reimbursing for the cost of the mandated program.”</p> <p>30 Ill. Comp. Stat. § 805/3(b).</p>
Iowa	The State Mandates Act, Iowa Code ch. 25B.	<p>If a state mandate requires a political subdivision “to engage in any new activity, to provide any new service, or to provide any service beyond that required by any law enacted on or after July 1, 1994,” and the state does not fully fund the cost of the mandate, then political subdivisions are not required to comply with the mandate.</p> <p>Political subdivisions must only provide property tax credits and exemptions to the extent they are funded by the state.</p> <p>Iowa Code §§ 25B.2, 25B.7.</p>	<ul style="list-style-type: none"> • Mandates prior to July 1, 1994 (except for amendments to those mandates which require service beyond that required before July 1, 1994) • Mandates which require an additional combined annual expenditure of \$100,000 or more, or combined expenditure of \$500,000 or more within 5 years • Federal mandates • Mandates issued by court order • Mandates relating to public employee retirement systems <p>Iowa Code §§ 25B.2, 25B.3.</p>	<p>A state agency or department must also submit a fiscal impact statement if it proposes a rule “which necessitates additional combined annual expenditures exceeding one hundred thousand dollars by all affected political subdivisions or agencies and entities which contract with the affected political subdivisions to provide services.”</p> <p>Iowa Code § 25B.6.</p>	<p>“‘State mandate’ means a statutory requirement or appropriation which requires a political subdivision of the state to establish, expand, or modify its activities in a manner which necessitates additional combined annual expenditures of local revenue by all affected political subdivisions of at least one hundred thousand dollars, or additional combined expenditures of local revenue by all affected political subdivisions within five years of enactment of five hundred thousand dollars or more, excluding an order issued by a court of this state.”</p> <p>Iowa Code § 25B.3.</p>

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Louisiana	La. Const. art. VI, § 14.	<p>“No law or state executive order, rule or regulation requiring increased expenditures for any purpose shall become effective within a political subdivision until approved by [local government] ordinance..[and] the legislature appropriates funds for the purpose to the affected political subdivision...or until a law provides for a local revenue source for the purpose...and the affected political subdivision is authorized...to levy and collect such revenue....”</p> <p>La. Const. art. VI, § 14(A).</p>	<ul style="list-style-type: none"> • Educational programs. <p>La. Const. art. VI, § 14(A).</p> <ul style="list-style-type: none"> • Local government requested mandates. • Mandates prior to 1991. • Federal mandates. • Pension benefits for firemen and municipal policemen. • Acts adopted by 2/3 of voting members of each house of legislature.. • Acts with “insignificant fiscal impacts.” <p>La. Const. art. VI, § 14(B).</p>	<p>According to the Police Jury Association of Louisiana, the legislature has not abused the 2/3/ vote exemption. The “insignificant fiscal impact” language has not caused problems.*</p>	<p>“No law or state executive order, rule, or regulation requiring increased expenditures for any purpose shall become effective within a political subdivision....”</p> <p>La. Const. art. VI, § 14(A) (emphasis added).</p>
Maine	<p>Me. Const. art. IX, § 21.</p> <p>Me. Rev. Stat. tit. 30-A, chapt. 223, § 5685.</p>	<p>“...the State may not require a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government.”</p> <p>Me. Const. art. IX, § 21.</p>	<ul style="list-style-type: none"> • Laws, rules or executive orders issued prior to November 23, 1992. • Legislation enacted by a 2/3's vote of each chamber which specifically states the intention to create an exception to Article IX, Section 21. <p>Me. Const. art. IX, § 21; Me. Rev. Stat. § 5685(3)(F).</p> <ul style="list-style-type: none"> • Federal laws or regulations (unless the state imposes more stringent requirements). <p>Me. Rev. Stat. § 5685 (3)(D).</p> <p>“Required state mandate funds do not include for the costs to local units of government of implementing laws, rules, executive orders or judicial decisions or orders that are required to comply with the following provisions of the Constitution of Maine:</p> <p>(1) The reapportionment requirements of Article IV, Part First, Section 2 and Article IV, Part Second, Section 2;</p>		<p>“‘Mandate’ means any law, rule or executive order of this State enacted, adopted or issued after November 23, 1992 that requires a local unit of government to expand or modify that unit's activity so as to necessitate additional expenditures from that unit's local revenues. ‘Mandate’ includes laws, rules or executive orders that primarily affect the performance of a local unit's governmental activities.”</p> <p>Me. Rev. Stat. § 5685 (1)(C).</p>

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			<p>(2) The constitutional referenda provisions of Article X, Section 4;</p> <p>(3) The people's veto of legislation provisions of Article IV, Part Third, Section 17; and</p> <p>(4) The direct initiative of legislation provisions of Article IV, Part Third, Section 18.”</p> <p>Me. Rev. Stat. § 5685 (3)(E).</p>		
Massachusetts	<p>Mass. Const. art. of amend. CXV.</p> <p>Local Mandate Law, Mass. Gen. Laws ch. 29 § 27C and ch. 11 § 6B</p>	<p>“Article CXV. No law imposing additional costs upon two or more cities or towns by the regulation of the compensation, hours, status, conditions or benefits of municipal employment shall be effective in any city or town until such law is accepted by vote or by the appropriation of money for such purposes, in the case of a city, by the city council in accordance with its charter, and in the case of a town, by a town meeting or town council, unless such law has been enacted by a two-thirds vote of each house of the general court present and voting thereon, or unless the general court, at the same session in which such law is enacted, has provided for the assumption by the commonwealth of such additional cost.”</p> <p>Mass. Const. art. of amend. CXV.</p> <p>“The Local Mandate Law was enacted as part of the property tax limit initiative known as Proposition 2 1/2. In general terms, the Local Mandate Law provides that any post-1980 state law or regulation "imposing any direct service or cost obligation upon any city or town shall be effective only if" the community votes to accept the law or regulation, or the Commonwealth assumes the cost of compliance. M.G.L. ch. 29, § 27C(a). It also allows any community aggrieved by an unfunded state mandate to petition superior court for an exemption from compliance. In such a proceeding, the determination by the Division of Local Mandates (DLM) of the amount of compliance cost is considered prima facie evidence of the amount of state funding necessary to sustain the mandate.</p> <p>Mass. Gen. Laws ch. 29, § 27C(e).”</p>	<p>“<i>The Local Mandate Law does not apply:</i></p> <ul style="list-style-type: none"> • When the new mandate imposes only incidental administration expenses on cities and towns. • When there is a stipulation that requires municipal compliance with the mandate as a condition of state aid. • When the new mandate imposes indirect, NOT <i>direct</i> costs such as the regulatory expenses imposed on commercial enterprises that are indirectly passed on to customers, including municipalities. • When the new mandate is the result of a <i>court decision</i>. • When the new mandate or amendment permits <i>local option compliance</i>. • When the Legislature overrides the Local Mandate Law. • When the new mandate is a federal pass-through mandate, such as EPA regulations governing safe drinking water standards. • When the new mandate regulates the compensation, hours, status, conditions or benefits of <i>municipal employment</i>. (Article 115 of the State Constitution governs this area of state law. However, no funding is required for such laws passed by a 2/3s vote of both the House and Senate.) 		<p>“Section 27C. Notwithstanding any provision of any special or general law to the contrary:</p> <p>(a) Any law taking effect [post 1980] imposing any direct service or cost obligation upon any city or town....</p> <p>(b) Any law taking effect [post 1980] granting or increasing exemptions from local taxation....</p> <p>(c) Any administrative rule or regulation taking effect [post 1980] which shall result in the imposition of additional costs upon any city or town....”</p> <p>Mass. Gen. Laws ch. 29 § 27C.</p> <p>“The [Division of Local Mandates] shall review every five years those laws and administrative regulations which have a significant financial impact upon cities or towns. For the purposes of this section “Significant financial impact” is defined as requiring municipalities to <i>expand existing services, employ additional personnel, or increase local expenditures. . . .</i>”</p> <p>Mass. Gen. Laws ch. 11 § 6B (emphasis added).</p>

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		<p>“Municipal Mandates, A guide to the mandate provisions of Proposition 2 ½, Frequently Asked Questions” Massachusetts Office of the State Auditor, n.d., <http://www.mass.gov/sao/faq.htm> (July 27, 2010).</p>	<p>The local Mandate Law is designed to protect cities, towns, regional school districts and educational collaborative from state imposed costs. It does not protect counties, authorities, and other regional subdivisions.”</p> <p>“Municipal Mandates, A guide to the mandate provisions of Proposition 2 ½, Frequently Asked Questions” Massachusetts Office of the State Auditor, n.d., <http://www.mass.gov/sao/faq.htm> (July 27, 2010).</p>		
Michigan	<p>Mich. Const. art. IX, § 29</p> <p>Act 101 of 1979 (State Disbursement to Local Units of Government), Mich. Comp. Laws ch. 21, § 21.231 et. seq.</p>	<p>“§ 29 State financing of activities or services required of local government by state law.</p> <p>Sec. 29. The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18 [pertaining to salaries of justices and judges].”</p> <p>Mass. Const. art. IX, § 29</p>	<p>“§ 18 Salaries; uniformity, changes during term.</p> <p>Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.”</p> <p>Mass. Const. art. VI, § 18.</p> <p>***</p> <p>“State requirement does not include any of the following:</p> <p>(a) A requirement imposed on a local unit of government by a state statute or an amendment to the state constitution of 1963 adopted pursuant to an initiative petition....</p> <p>(b) A requirement imposed on a local unit of government by a state statute or an amendment to the state constitution of 1963, enacted or adopted pursuant to a proposal placed on the ballot by the legislature, and approved by the voters....</p> <p>(c) A court requirement.</p>	<p>“Section 29 has been largely disregarded. Public Act 101 of 1979, the law enacted to implement Section 29, was never fully implemented and state requirements subsequently have been enacted without regard to this provision in the Constitution. The courts have resisted enforcing this provision. Rather than enforcing this provision of the State Constitution, executive branch officers have actively opposed enforcement of this section.</p> <p>***</p> <p>While it can be assumed that Act 101 was enacted in good faith to comply with the will of the people as expressed</p>	<p>“(5) ‘State requirement’ means a state law which requires a new activity or service or an increased level of activity or service beyond that required of a local unit of government by an existing law.”</p> <p>Mich. Comp. Laws ch. 21, § 21.234.</p>

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			(d) A due process requirement. (e) A federal requirement. (f) An implied federal requirement. (g) A requirement of a state law which applies to a larger class of persons or corporations and does not apply principally or exclusively to a local unit or units of government. (h) A requirement of a state law which does not require a local unit of government to perform an activity or service but allows a local unit of government to do so as an option.... (i) A requirement of a state law which changes the level of requirements, standards, or guidelines of an activity or service that is not required of a local unit of government by existing law or state law, but that is provided at the option of the local unit of government. (j) A requirement of a state law enacted pursuant to section 18 of article 6 of the state constitution of 1963.” Mich. Comp. Laws ch. 21, § 21.234(5).	through the State Constitution, definitions within the act have been discarded by the courts; the required joint rules were never created; the Local Government Claims Review Board was belatedly created and given operating rules, and later was wholly abandoned; and over time Section 29 and the process created in Act 101 have been all but ignored.” Citizens Research Council of Michigan, <i>Reforming the Process for Identifying and Funding Section 29 Mandates on Local Governments</i> , Report 335, July 2009, pp. i, 3.	
Minnesota	Minn. Stat. § 3.986	“‘Local fiscal impact’ means increased or decreased costs or revenues that a political subdivision would incur as a result of a law enacted after June 30, 1997, or rule proposed after December 31, 1999.” Minn. Stat. § 3.986, subd. 2. “A ‘mandate’ is a requirement imposed upon a political subdivision in a law by a state agency or by judicial authority that, if not complied with, results in: (1) civil liability; (2) criminal penalty; or (3) administrative sanctions such as reduction or loss of funding.” Minn. Stat. § 3.986, subd. 3.	“(1) accommodates a specific local request; (2) results in no new local...duties; (3) leads to revenue losses from exemptions to taxes; (4) provides...nonsubstantive charges...; (5) imposes [de minimis cost as specified]; (6) is a law or executive order enacted before July 1, 1997, or a rule initially implementing a law enacted before July 1, 1997; (7) implements something other than a law or executive order...;	“In [a] survey conducted by the Minnesota Office of the Legislative Auditor in 2000, just over 70 percent of the local government officials responding to the survey thought that mandates made their jobs either somewhat or considerably more difficult.”	See “Key Language.” Also, “In this report, we use the word ‘mandate’ to mean requirements, including conditions of receiving aid or participating in a program, and restrictions.” See Office of the Legislative Auditor. January 2000. <i>State Mandates on Local Governments</i> . St. Paul: State of Minnesota. p. 5.

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			(8) results in savings that equal or exceed costs; (9) requires the holding of elections; (10) ensures due process or equal protection; (11) [relates to] public meetings; (12) [provides] for administrative and judicial review of actions...by political subdivisions; (13) protects the public from [improper actions of local officials]; (14) relates directly to financial administration, including tax [administration]; (15) relates directly to [auditing functions]; or (16) requires uniform standards to apply to public and private institutions....” Minn. Stat. § 3.988.	Grossback, Lawrence J., <i>The Problem of State-Imposed Mandates: Lessons from Minnesota’s Local Governments</i> , State and Local Government Review, Vol.34, No. 3 (Fall 2002), p. 188. The following tools, with exception, are otherwise available for broad application: local fiscal impact notes, fiscal impact summary report, funding or reimbursement provisions, mandate explanations, state agency variances, rule petitions, Board of Government Innovation and Cooperation waivers, mandate studies. Ibid., p. 42.	
Missouri	Mo. Const. art. I, § 21 Mo. Rev. Stat. § 23.140	“Section 21. The state is hereby prohibited from reducing the state financed proportion of the costs of any existing activity or service required of counties and other political subdivisions. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.” Mo. Const. Art. I, § 21	None.	The Board of the Missouri Association of Counties has recently decided to sue the state over unfunded mandates.* Section 23.140 of the Missouri Revised Statutes delineates the requirements for fiscal notes.	“[A]ny...activity or service required of counties and other political subdivisions....” Mo. Const. Art. I, § 21

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Montana	Mont. Code Ann. § 1-2-112.	<p>“...a law enacted by the legislature that requires a local government unit to perform an activity or provide a service or facility that requires the direct expenditure of additional funds and that is not expected of local governments in the scope of their usual operations must provide a specific means to finance the activity, service, or facility other than a mill levy... Any law that fails to provide specific means to finance any activity, service or facility is not effective until specific means of financing are provided by the legislature from state or federal funds.”</p> <p>Mont. Code Ann. § 1-2-112.</p>	<p>“(a) mandates that are required of local governments as a matter of constitutional law or federal statute or that are considered necessary for the operation of local governments, including but not limited to:</p> <ul style="list-style-type: none"> (i) due process mandates; (ii) equal treatment mandates; (iii) local government ethics mandates; (iv) personnel and employment mandates; (v) recordkeeping requirements; or (vi) mandates concerning the organizational structure of local governments; <p>(b) any law under which the required expenditure of additional local funds is an insubstantial amount.... A required expenditure of the equivalent of approximately 1 mill levied on taxable property of the local government unit or \$10,000, whichever is less, may be considered an insubstantial amount.</p> <p>(c) a law necessary to implement the National Voter Registration Act of 1993....”</p> <p>Mont. Code Ann. § 1-2-112(3).</p>	<p>Statute clearly states that subsequent legislation may not “supersede or modify any provision of this section by implication.” However, legislation may expressly supersede or modify provisions of Montana’s unfunded mandate provision.*</p>	<p>See “Key Language.”</p>
Nevada	Nev. Rev. Stat. §§ 354.599, 218D.270, 218D.475, 218D.480.	<p>The statute indicates that when Legislature requires local governments to create a new program or service, or increase an existing program or service, which requires an expenditure of funds of \$5,000 or more for each local government, then the state must specify a source of revenue for the additional costs. The additional revenue can only be used to pay for expenses directly related to the program or service. If a local government has funds available from any other source to pay for the expenses, it must use those moneys before expending any money from the revenue source provided for in statute.</p> <p>Nev. Rev. Stat. § 354.599.</p>	<p>Nevada Revised Statute only addresses state statutorily imposed mandates; it does not address federally imposed mandates.</p>	<p>If a specified source of revenue is not authorized by a specific statute, “the face of the measure must indicate: (1) That the measure contains an unfunded mandate; and (2) Whether the measure was requested by or on behalf of one or more local governments that</p>	<p>See “Key Language.”</p>

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				will be required by the measure to establish, provide or increase the program or service.” Nev. Rev. Stat. § 218D.270.	
New Hampshire	N.H. Const. art. 28-a.	“The state shall not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision.” N.H. Const. art. 28-a.	None	New Hampshire County Association claims the provision has offered sufficient protection.*	None. <i>See</i> “Key Language”
New Jersey	N.J. Const. art. VIII, § II, ¶ 5 N.J. Perm. Stat. tit. 52 (State Government, Departments and Officers), §13H-1, et seq.	“. . . except as otherwise provided herein, any provision of such law, or of such rule or regulation issued pursuant to a law, which is determined...to be an unfunded mandate...because it does not authorize resources, other than the property tax...shall, upon such determination cease to be mandatory in its effect and expire.” N.J. Const. art. VIII, § 2, ¶ 5(a). “. . .the purpose of this constitutional provision is to prevent the State government from requiring units of local government to implement additional or expanded activities without providing funding for those activities.” N.J. Perm. Stat. tit. 52, §13H-1(b).	<ul style="list-style-type: none"> • Law enacted prior to January 17, 1996. • Rule or regulation issued pursuant to a law adopted prior to July 1, 1996. • Laws or rules or regulations issued pursuant to a law: <ul style="list-style-type: none"> - “Required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;” - “Imposed on both government and non-government entities in the same or similar circumstances;” - Which diminish an existing mandate or shift costs of current mandates among boards of education, counties, and municipalities; - Which implement state constitutional provisions; Upon public hearing and notice, laws passed by ¾ affirmative vote of each House of the Legislature. N.J. Const. art. VIII, § II, ¶ 5.	The New Jersey State Constitution establishes the Council on Local Mandates with the charge of resolving any dispute regarding whether a law or rule or regulation issued pursuant to a law constitutes an unfunded mandate. N.J. Const. art. VIII, § II, ¶ 5(b). The New Jersey Permanent Statutes implement the constitutional requirement of establishing the Council on Local Mandates. N.J. Perm. Stat. tit. 52 §13H-1, et seq.	Uses constitutional provisions. <i>See</i> “Key Language.”

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Oregon	Or. Const. art. XI, § 15.	<p>“...when the Legislative Assembly or any state agency requires any local government to establish a new program or provide an increased level of service for an existing program, the State of Oregon shall appropriate and allocate to the local government money’s sufficient to pay the ongoing, usual and reasonable costs of performing the mandated service or activity.”</p> <p>Or. Const. art. XI, § 15(1).</p>	<ul style="list-style-type: none"> • Law approved by three-fifths of the membership of the Legislature. • Costs resulting from a law creating or changing the definition of a crime or establishing sentences for conviction of a crime. • With exception, relating to de-funding of programs, for existing programs required prior to January 1, 1997. • New federal programs which have “usual and reasonable” costs. • Judicial mandates. • Legislation approved by initiative and referendum powers of the people. • “Programs that are intended to inform citizens about the activities of local governments.” <p>Or. Const. art. XI, § 15(7).</p> <p>Local government may refuse to comply with a law or rule only if:</p> <ul style="list-style-type: none"> • Amount appropriated by State is less than 95 percent of the usual and reasonable costs of a program; or • Program requires additional expenditure above appropriation exceeding one-hundredth of one percent of the annual budget adopted by the local government. <p>Or. Const. art. XI, § 15(3).</p>	<p>If none of the seven enumerated exemptions apply, the legislature has the option of identifying and directing the imposition of a fee or charge to be used by local government to recover the actual costs of the program. <i>See, Rocco, Ken, Background on...Local Mandates, Legislative Committee Services, Salem, Or., June 2008.</i></p>	<p>“‘Program’ means a program or project imposed by enactment of the Legislative Assembly or by rule or order of a state agency under which a local government must provide administrative, financial, social, health or other specified services to persons, government agencies or to the public generally.”</p> <p>Or. Const. art. XI, § 15(2)(c).</p>

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Rhode Island	R.I. Gen. Laws §§ 45-13-6 – 45-13-11.1.	<p>“It is the purpose of [this chapter] to control state mandates on towns and cities, to identify and report on all state mandates, and to establish a system for the reimbursement to towns and cities for the cost of state mandates.”</p> <p>R.I. Gen. Laws § 45-13-6.</p> <p>“The state must reimburse cities and towns for state mandate costs according to the following procedure: “(1) The department of revenue shall submit to the budget office...each year a report by each city and town of the cost of state mandates established after January 1, 1979....(2) The budget office shall annually include the statewide total of the statement of costs of state mandate costs eligible to be reimbursed in the state budget...(3) The state treasurer shall...distribute to cities and towns the reimbursements for state mandated costs.”</p> <p>R.I. Gen. Laws § 45-13-9.</p> <p>“No mandate shall be enacted or promulgated after July 1, 2006, unless the body enacting or promulgating the same shall first, after public hearing, determine the cost of the proposed mandate to the city, town, or school districts of the state. Any rule, regulation or policy adopted by state departments, agencies or quasi-state departments or agencies which require any new expenditure of money or increased expenditure of money by a city, town or school district shall take effect on July 1 of the calendar year following the year of adoption. Provided, however, should funding be provided for the said expenditure, then such rule, regulation or policy shall take effect upon adoption.”</p> <p>R.I. Gen. Laws § 45-13-9.1.</p>	<p>“When state statutory, executive, or regulator actions or rules, regulations or policies are intended to achieve compliance with federal statutes or regulations or court orders, state mandates shall be determined as follows:</p> <p>(1) Where the federal statute or regulations or court order is discretionary, the state statutory, executive, or regulator action shall be considered a state mandate....</p> <p>(2) Where the state statutory, executive, or regulator action or rule, regulation or policy exceeds what is required by the federal statute or regulation or court order, only the provisions of the state action which exceed the federal requirements shall be considered a state mandate....</p> <p>(3) Where the state statutory, executive, or regulator action or rule, regulation or policy does not exceed what is required by the federal statute or regulation or court order, the state action shall not be considered a state mandate....</p> <p>(4) Where the cost of a single state mandate does not exceed...\$500the state mandate shall not be reimbursable.”</p> <p>R.I. Gen. Laws § 45-13-7.</p> <p>“State mandates not subject to reimbursement includes:</p> <p>(1) The holding of elections;</p> <p>(2) The assurance of due process;</p> <p>(3) The notification and conduct of public meetings;</p> <p>(4) The procedures for administrative and judicial review of actions taken by cities and towns;</p>		<p>“‘State mandate’ means any state initiated statutory or executive action or rule, regulation or policy adopted by a state department or agency or a quasi-public department or agency that requires a local government to establish, expand, or modify its activities in a way as to necessitate additional expenditures from local government revenue sources where the expenditures are not otherwise reimbursed in whole....[A] ‘state mandate’ shall also mean any requirement, rule, or dictate by a regulator of a state agency.”</p> <p>R.I. Gen. Laws § 45-13-7.</p>

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			<p>(5) The protection of the public from malfeasance, misfeasance, or nonfeasance by local government officials;</p> <p>(6) Financial administration, including the levy, assessment, and collection of taxes; and</p> <p>(7) The preparation and submission of reports necessary for the efficient administration of state laws.”</p> <p>R.I. Gen. Laws § 45-13-10(a).</p> <p>“The provisions...of this chapter may be excused, avoided or suspended only by law enacted by the affirmative vote of...3/5 of each house of the general assembly.”</p> <p>R.I. Gen. Laws § 45-13.11.1.</p>		
South Carolina	S.C. Code §§ 4-9-55, 5-7-310.	<p>A county or municipality is not required to comply with a general law requiring the expenditure of funds unless the law is approved by a 2/3’s majority in each chamber of the General Assembly. S.C. Code of Laws, Sections 4-9-55 (A), 5-7-310. A 2/3’s vote by each chamber of the General Assembly is also required for legislature to “enact, amend, or repeal any general law” if the action would reduce the ability of a county or municipality “to raise revenues in the aggregate, as the authority exists on July 1, 1993.”</p> <p>S.C. Code of Laws, Section 4-9-55 (B).</p>	<p>“(1) laws enacted to require funding of pension benefits existing on the effective date of this section;</p> <p>(2) laws relating to the judicial department;</p> <p>(3) criminal laws;</p> <p>(4) election laws;</p> <p>(5) the Department of Education;</p> <p>(6) laws reauthorizing but not expanding then-existing statutory authority;</p> <p>(7) laws having a fiscal impact of less than ten cents per capita on a statewide basis; laws creating, modifying, or repealing noncriminal infractions.”</p> <p>S.C. Code, § 4-9-55 (C).</p>	<p>The General Assembly may pass a statute requiring the expenditure of funds with a simple majority vote if one of the following conditions exists:</p> <p>(1) funds have been appropriated;</p> <p>(2) the county or municipality is authorized to enact a funding source not available for the county on July 1, 1993;</p> <p>“(3) the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments;”</p>	See “Key Language.”

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				“(4) the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement.” S.C. Code §§ 4-9-55 (A), 5-7-310.	
South Dakota	S.D. Codified Laws §§ 6-15-1, 6-15-2.	“No state law, rule, or regulation which mandates any county, municipality, or school district to engage in any new activity, to provide any new service, to increase any current level of activity or to provide any service beyond that required by existing law has the force of law unless or until the state provides sufficient new funding or a means of new funding to the county, municipality, or school district to pay the cost of performing the mandated activity or service for the period of time during which the activity or service is required to be performed.” S.D. Codified Laws § 6-15-1.	“. . . any law, rule, or regulation: (1) Concerning the conduct of elections; (2) Required by federal law; (3) Required to fund the unified judicial system; (4) Required to fund the welfare system; (5) Creating, modifying, or repealing any criminal law; (6) Reauthorizing but not expanding existing statutory authority; or (7) Specifying a minimum salary for public officials.” S.D. Codified Laws § 6-15-2.		See “Key Language.”
Tennessee	Tenn. Const. art. 2, § 24. Tenn. Code §§ 3-7-114, 9-4-5301 et seq.	“No law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.” Tenn. Const. art. 2, § 24.	The Tennessee Constitution does not address revenue sharing for federal laws of general application; it only addresses revenue sharing for state laws of general application.	The Fiscal Review Committee is charged with the responsibility of identifying and listing each law that was enacted during the fiscal year that is “null and void” for lack of providing an appropriation in an amount estimated for the first year of funding. This review and list must be completed within 45 days following the conclusion of the fiscal year. Tenn. Code § 3-7-114	See “Key Language.”

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Virginia	Va. Code §§ 2.2-113, 2.2-615 et seq., 15.2-2903.	<p>The Virginia Code empowers the Commission on Local Government to direct state agencies to conduct assessments of mandates imposed by them on localities. The Commission sets the schedule of assessments, but agencies are not required to perform assessments of mandates more often than once every four years. The object of the periodic assessments is to determine if any mandates exist that can be modified or eliminated.</p> <p>Va. Code § 15.2-2903(6).</p> <p>“The Governor may suspend, temporarily...any mandate, or portion thereof, prescribed by any unit of the executive branch of state government on a county, city, town, or other unit of local government upon a finding that it faces fiscal stress and the suspension of the mandate or portion thereof would help alleviate the fiscal hardship.”</p> <p>Va. Code § 2.2-113.</p>	<p>The Governor’s qualified authority to temporarily suspend any mandate shall not apply to the Department of Education.</p> <p>Va. Code § 2.2-113.E.</p>	<p>Virginia also has enacted the “Implementation of Federal Mandates Act,” the purpose of which “is to ensure that federal mandates implemented in Virginia comply with state policy as established by the General Assembly.”</p> <p>Va. Code §§ 2.2-615 – 2.2-619.</p>	<p>See “Key Language.”</p>
Washington	Wash. Rev. Code § 43.135.060.	<p>“(1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels. Reimbursement by the state may be made by: (a) A specific appropriation; or (b) increases in state distributions of revenue to political subdivisions occurring after January 1, 1998.</p> <p>(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.</p> <p>(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state....”</p> <p>Wash. Rev. Code § 43.135.060.</p>	<p>Costs incurred for voting devices or machines under Wash. Rev. Code § 29.04.200.</p> <p>Wash. Rev. Code § 43.135.060(4).</p>		<p>See “Key Language.”</p>

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Wisconsin	Wis. Stat. § 66.0143.	<p>“State mandate” means a state law that requires a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services.”</p> <p>Wis. Stat. § 66.0143(1)(b).</p> <p>Counties and municipalities may file an appeal for exemption from a state mandate with the Wisconsin Department of Revenue. If approved, the waiver is effective for 4 years.</p> <p>Wis. Stat. § 66.0143(2), (3).</p>	<p>“A political subdivision may file a request with the department of revenue for a waiver from a state mandate, except for a state mandate that is related to any of the following:</p> <ol style="list-style-type: none"> 1. Health. 2. Safety.” <p>Wis. Stat. § 66.0143(2)(a).</p>	<p>Prior to 2004, the state of Wisconsin provided County mandate relief payments via a delineated formula. Wis. Stat. § 79.058. In 2001 and 2003, the Wisconsin legislature revised the method by which shared revenue and other payments were calculated for counties and municipalities.</p>	<p><i>See</i> “Key Language.”</p>

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