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SENATE FILE 2239
BY PRIEBE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act to reduce the imposition of state mandates on political
2 subdivisions of the state and the private sector, to curtail
3 the imposition of state mandates without adequate funding,
4 making an appropriation, and providing for other related
5 matters.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2239

1 Section 1. NEW SECTION. 25C.1 SHORT TITLE.

2 This Act may be cited as the "Unfunded Mandates Reform Act
3 of 1996".

4 Sec. 2. NEW SECTION. 25C.2 PURPOSES.

5 The purposes of this chapter are:

6 1. To strengthen the partnership between the state
7 government and local governments.

8 2. To end the imposition, in the absence of full
9 consideration by the general assembly, of state mandates on
10 local governments without adequate state funding, in a manner
11 that may displace other essential local governmental
12 priorities.

13 3. To assist the general assembly in its consideration of
14 proposed legislation establishing or revising state programs
15 containing state mandates affecting local governments and the
16 private sector by the following:

17 a. Providing for the development of information about the
18 nature and size of mandates in proposed legislation.

19 b. Establishing a mechanism to bring the information to
20 the attention of the senate and the house of representatives
21 before the senate and the house of representatives vote on
22 proposed legislation.

23 4. To promote informed and deliberate decisions by the
24 general assembly on the appropriateness of state mandates in
25 any particular instance.

26 5. To require that the general assembly consider whether
27 to provide funding to assist local governments in complying
28 with state mandates, to require analyses of the impact of
29 private sector mandates, and, through the dissemination of
30 that information, to provide informed and deliberate decisions
31 by the general assembly and state agencies and retain
32 competitive balance between the public and private sectors.

33 6. To establish a vote on the consideration in the senate
34 and house of representatives of legislation containing
35 significant state governmental mandates without providing

1 adequate funding to comply with the mandates.

2 7. To assist state agencies in their consideration of
3 proposed rules affecting local governments, by the following:

4 a. Requiring that state agencies develop a process to
5 enable the elected and other officials of local governments to
6 provide input when state agencies are developing
7 administrative rules.

8 b. Requiring that state agencies prepare and consider
9 estimates of the budgetary impact of rules containing state
10 mandates upon local governments and the private sector before
11 adopting the rules.

12 8. To begin consideration of the effect of previously
13 imposed state mandates, including the impact on local
14 governments of state court interpretations of statutes and
15 rules that impose state governmental mandates.

16 Sec. 3. NEW SECTION. 25C.3 DEFINITIONS.

17 As used in this chapter, unless the context otherwise
18 requires:

19 1. "Amount" means the total sum of budget authority for
20 any state grant assistance program or any state program
21 providing loan guarantees or direct loans.

22 2. "Direct costs":

23 a. In the case of a state governmental mandate, means the
24 aggregate estimated amounts that all local governments would
25 be required to spend or would be prohibited from raising in
26 revenues in order to comply with the state governmental
27 mandate.

28 b. In the case of a provision referred to in subsection 7,
29 paragraph "a", subparagraph (2), means the amount of state
30 financial assistance eliminated or reduced.

31 c. In the case of a state private sector mandate, means
32 the aggregate estimated amounts that the private sector will
33 be required to spend in order to comply with the state private
34 sector mandate.

35 d. Shall be determined on the assumption that:

1 (1) Local governments and the private sector will take all
2 reasonable steps necessary to mitigate the costs resulting
3 from the state mandate, and will comply with applicable
4 standards of practice and conduct established by recognized
5 professional or trade associations.

6 (2) Reasonable steps to mitigate the costs shall not
7 include increases in local taxes or fees.

8 e. Shall not include:

9 (1) Estimated amounts that the local governments in the
10 case of a state governmental mandate or the private sector in
11 the case of a private sector mandate would spend to do any of
12 the following:

13 (a) To comply with or carry out all applicable state laws
14 and rules in effect at the time of the adoption of the state
15 mandate for the same activity as is affected by that state
16 mandate.

17 (b) To comply with or carry out state governmental
18 programs or private-sector business or other activities in
19 effect at the time of the adoption of the state mandate for
20 the same activity as is affected by that mandate.

21 (2) Expenditures to the extent that the expenditures will
22 be offset by any direct savings to the local governments, or
23 by the private sector, as a result of any of the following:

24 (a) Compliance with the state mandate.

25 (b) Other changes in state law or rules that are enacted
26 or adopted in the same bill or joint resolution or proposed or
27 final state rule and that govern the same activity as is
28 affected by the mandate.

29 3. "Direct savings", when used with respect to the result
30 of compliance with the state mandate, means:

31 a. In the case of a state governmental mandate, the
32 aggregate estimated reduction in costs to any local government
33 as a result of compliance with the state governmental mandate.

34 b. In the case of a private sector mandate, means the
35 aggregate estimated reduction in costs to the private sector

1 as a result of compliance with the private sector mandate.

2 4. "Director" means the director of the legislative fiscal
3 bureau.

4 5. "Local government" means a political subdivision of
5 this state.

6 6. "Private sector" means all persons or entities in the
7 United States, including individuals, partnerships,
8 associations, corporations, and educational and nonprofit
9 institutions, but shall not include local governments.

10 7. "Private sector mandate" means any provision in statute
11 or rule that would do any of the following:

12 a. Impose an enforceable duty upon the private sector
13 except any of the following:

14 (1) A condition of state assistance.

15 (2) A duty arising from participation in a voluntary state
16 program.

17 b. Reduce or eliminate the amount of authorization of
18 appropriations for state financial assistance that will be
19 provided to the private sector for the purposes of ensuring
20 compliance with the duty.

21 8. "Small government" means a political subdivision of the
22 state with the following population qualifications:

23 a. A county having a population of less than fifteen
24 thousand.

25 b. A city having a population of less than three thousand.

26 c. A township having a population of less than three
27 thousand.

28 9. "State agency" means an office, bureau, department,
29 board, division, or commission within the executive branch of
30 state government.

31 10. "State governmental mandate" means:

32 a. Any provision in legislation, statute, or rule that
33 would do any of the following:

34 (1) Would impose an enforceable duty upon local
35 governments except any of the following:

1 (a) A condition of state assistance.

2 (b) A duty arising from participation in a voluntary state
3 program except as provided in paragraph "b".

4 (2) Reduce or eliminate the amount of authorization of
5 state financial assistance that would be provided to local
6 governments for the purpose of complying with any previously
7 imposed duty unless the duty is reduced or eliminated by a
8 corresponding amount.

9 b. Any provision in statute or rule that relates to an
10 existing state program under which five hundred thousand
11 dollars or more is provided annually to local governments, if
12 the provision would do any of the following:

13 (1) Increase the stringency of conditions of assistance to
14 local governments under the program.

15 (2) Place restrictions upon, or otherwise decrease, the
16 state government's responsibility to provide funding to local
17 governments under the program and the local governments that
18 participate in the state program lack authority under that
19 program to amend their financial or programmatic
20 responsibilities to continue providing required services that
21 are affected by the statute or rule.

22 11. "State mandate" means a state governmental mandate or
23 a private sector mandate.

24 Sec. 4. NEW SECTION. 25C.4 EXCLUSIONS.

25 This chapter shall not apply to any provision in a bill,
26 joint resolution, amendment, motion, or conference committee
27 report before the general assembly and any provision in a
28 proposed or final administrative rule that does any of the
29 following:

30 1. Enforces constitutional rights of individuals.

31 2. Establishes or enforces any statutory rights that
32 prohibit discrimination on the basis of age, race, creed,
33 color, sex, national origin, religion, or disability.

34 3. Requires compliance with accounting and auditing
35 procedures with respect to grants or other money or property

1 provided by the state or federal government.

2 4. Provides for emergency assistance or relief at the
3 request of any local government or any official of a local
4 government.

5 Sec. 5. NEW SECTION. 25C.5 ASSISTANCE TO LEGISLATIVE
6 FISCAL BUREAU.

7 Each state agency shall provide to the legislative fiscal
8 bureau the information and assistance as the director may
9 reasonably request to assist in carrying out the powers and
10 duties of the legislative fiscal bureau under this chapter.

11 Sec. 6. NEW SECTION. 25C.6 DUTIES OF A LEGISLATIVE
12 COMMITTEE.

13 1. When a standing committee of the senate or the house of
14 representatives reports a bill or joint resolution out of
15 committee that includes a state mandate, the report of the
16 committee accompanying the bill or joint resolution shall
17 contain the information required by subsections 3 and 4.

18 2. When a standing committee of the senate or the house of
19 representatives reports a bill or joint resolution out of
20 committee, the committee shall promptly provide the bill or
21 joint resolution to the director and shall identify any state
22 mandates contained in the bill or resolution.

23 3. Each report described under subsection 1 shall contain
24 the following:

25 a. An identification and description of any state mandates
26 in the bill or joint resolution, including the direct costs to
27 local governments and to the private sector, required to
28 comply with the state mandates.

29 b. A qualitative and, if practicable, a quantitative
30 assessment of costs and benefits anticipated from the state
31 mandates including, but not limited to, the effects on health
32 and safety and protection of the natural environment.

33 c. A statement of the degree to which a state mandate
34 affects both the public and private sectors and the extent to
35 which state payment of public sector costs or the modification

1 or termination of the state mandate as provided under section
2 25C.8, subsection 1, paragraph "b", would affect the
3 competitive balance between local governments and the private
4 sector including a description of the actions, if any, taken
5 by the committee to avoid any adverse impact on the private
6 sector or the competitive balance between the public sector
7 and the private sector.

8 4. If any of the state mandates in the bill or joint
9 resolution are state governmental mandates, the report
10 required under subsection 1 shall also contain:

11 a. (1) A statement of the amount, if any, of increase or
12 decrease in authorization of appropriations under existing
13 state financial assistance programs or of authorization of
14 appropriations for new state financial assistance provided by
15 the bill or joint resolution and usable for activities of
16 local governments subject to the state governmental mandates.

17 (2) A statement of whether the committee intends that the
18 state governmental mandates be partly or entirely unfunded
19 and, if so, the reasons for that intention.

20 (3) If funded in whole or in part, a statement of whether
21 and how the committee has created a mechanism to allocate the
22 funding in a manner that is reasonably consistent with the
23 expected direct costs among and between the respective levels
24 of local government.

25 b. Any existing sources of state assistance in addition to
26 those identified in paragraph "a" that may assist local
27 governments in meeting the direct costs of the state
28 governmental mandates.

29 5. When a standing committee of the senate or the house of
30 representatives reports a bill or joint resolution out of
31 committee, the committee report accompanying the bill or joint
32 resolution shall contain, if relevant to the bill or joint
33 resolution, an explicit statement on the extent to which the
34 bill or joint resolution is intended to preempt any local law,
35 and, if so, an explanation of the effect of the preemption.

1 6. a. Upon receiving a statement from the director under
2 section 25C.7, a standing committee of the senate or the house
3 of representatives shall publish the statement in the
4 committee report accompanying the bill or joint resolution to
5 which the statement relates if the statement is available at
6 the time the report is printed.

7 b. If the statement is not published in the report, or if
8 the bill or joint resolution to which the statement relates is
9 expected to be considered by the senate or house of
10 representatives before the report is published, the committee
11 shall cause the statement, or a summary of the statement, to
12 be published in the senate or house journal in advance of
13 floor consideration of the bill or joint resolution.

14 Sec. 7. NEW SECTION. 25C.7 DUTIES OF DIRECTOR OF THE
15 LEGISLATIVE FISCAL BUREAU.

16 1. For each bill or joint resolution reported out of
17 committee by a standing committee of the senate or the house
18 of representatives, the director of the legislative fiscal
19 bureau shall prepare and submit to the committee a statement
20 as follows:

21 a. If the director estimates that the direct costs of all
22 state governmental mandates in the bill or joint resolution
23 will equal or exceed one hundred thousand dollars in the
24 fiscal year in which any state governmental mandate in the
25 bill or joint resolution or in any necessary implementing rule
26 would first be effective or one hundred thousand dollars in
27 any of the four fiscal years following that fiscal year, the
28 director shall so state, specify the estimate, and briefly
29 explain the basis of the estimate.

30 b. Estimates required under paragraph "a" shall include
31 estimates and brief explanations of the basis of the estimates
32 of all of the following:

33 (1) The total amount of the direct costs of complying with
34 the state governmental mandates in the bill or joint
35 resolution.

1 (2) If the bill or resolution contains an authorization of
2 appropriations under section 25C.8, subsection 1, paragraph
3 "b", subparagraph (2), the amount of new budget authority for
4 each fiscal year for a period not to exceed ten years beyond
5 the effective date necessary to fund the direct costs of the
6 state governmental mandate.

7 (3) The amount, if any, of increase in authorization of
8 appropriations under existing state financial assistance
9 programs, or of authorization of appropriations for new state
10 financial assistance, provided by the bill or joint resolution
11 and usable by local governments for activities subject to the
12 state mandates.

13 c. If the director determines that it is not feasible to
14 make a reasonable estimate that would be required under
15 paragraphs "a" and "b", the director shall report in the
16 statement that the reasonable estimate cannot be made and
17 shall include the reasons for that determination in the
18 statement. If a determination is made by the director, a
19 point of order under this chapter shall lie only under section
20 25C.8, subsection 1, paragraph "a", and as if the requirement
21 of section 25C.8, subsection 1, paragraph "a", had not been
22 met.

23 2. For each bill or joint resolution reported out of
24 committee by a standing committee of the senate or the house
25 of representatives, the director of the legislative fiscal
26 bureau shall prepare and submit to the committee a statement
27 as follows:

28 a. If the director estimates that the direct costs of all
29 private sector mandates in the bill or joint resolution will
30 equal or exceed five hundred thousand dollars in the fiscal
31 year in which any private sector mandate in the bill or joint
32 resolution or in any necessary implementing rule would first
33 be effective or five hundred thousand dollars in any of the
34 four fiscal years following that fiscal year, the director
35 shall so state, specify the estimate, and briefly explain the

1 basis of the estimate.

2 b. Estimates required under paragraph "a" shall include
3 estimates and a brief explanation of the basis of the
4 estimates of the following:

5 (1) The total amount of direct costs of complying with the
6 private sector mandates in the bill or joint resolution.

7 (2) The amount, if any, of increase in authorization of
8 appropriations under existing state financial assistance
9 programs, or of authorization of appropriations for new state
10 financial assistance, provided by the bill or joint resolution
11 usable by the private sector for the activities subject to the
12 private sector mandates.

13 c. If the director determines that it is not feasible to
14 make a reasonable estimate that would be required under
15 paragraphs "a" and "b", the director shall report in the
16 statement that a reasonable estimate cannot be made and shall
17 include the reasons for that determination in the statement.

18 3. If the director estimates that the direct costs of a
19 state mandate will not equal or exceed the thresholds
20 specified in subsections 1 and 2, the director shall so state
21 and shall briefly explain the basis of the estimate.

22 4. If a bill or joint resolution is passed in an amended
23 form, including if passed by one house as an amendment in the
24 nature of a substitute for the text of a bill or joint
25 resolution from the other house, or is reported by a
26 conference committee in amended form, and the amended form
27 contains a state mandate not previously considered by either
28 house or which contains an increase in the direct costs of a
29 previously considered state mandate, the conference committee
30 shall ensure, to the greatest extent practicable, that the
31 director shall prepare a statement as provided in this section
32 or a supplemental statement for the bill or joint resolution
33 in that amended form.

34 Sec. 8. NEW SECTION. 25C.8 LEGISLATIVE PROCEDURES.

35 1. It shall not be in order in the senate or the house of

1 representatives to consider:

2 a. Any bill or joint resolution that is reported out of
3 committee by a standing committee unless the committee has
4 published a statement of the director on the direct costs of
5 state mandates in accordance with section 25C.6, subsection 6,
6 before the consideration, except that this paragraph shall not
7 apply to any supplemental statement prepared by the director
8 under section 25C.7, subsection 4.

9 b. Any bill, joint resolution, amendment, motion, or
10 conference committee report that would increase the direct
11 costs of state governmental mandates by an amount that causes
12 the thresholds specified in section 25C.7, subsection 1,
13 paragraph "a", to be exceeded, unless any of the following
14 applies:

15 (1) The bill, joint resolution, amendment, motion, or
16 conference committee report provides new budget authority or
17 new entitlement authority for each fiscal year for the state
18 mandates included in the bill, joint resolution, amendment,
19 motion, or conference committee report in an amount equal to
20 or exceeding the direct costs of the state governmental
21 mandate.

22 (2) The bill, joint resolution, amendment, motion, or
23 conference committee report includes an authorization for
24 appropriations in an amount equal to or exceeding the direct
25 costs of the state governmental mandate, and the bill, joint
26 resolution, amendment, motion, or conference committee report
27 does any of the following:

28 (a) Identifies a specific dollar amount of the direct
29 costs of the state governmental mandate for each year up to
30 ten years during which the state governmental mandate shall be
31 in effect under the bill, joint resolution, amendment, motion,
32 or conference committee report, and the estimate is consistent
33 with the estimate determined under subsection 5 for each
34 fiscal year.

35 (b) Identifies any appropriation bill that is expected to

1 provide for state funding of the direct cost referred to under
2 subparagraph subdivision (a).

3 (c) (i) Provides that for any fiscal year the responsible
4 state agency shall determine whether there are insufficient
5 appropriations for that fiscal year to provide for the direct
6 costs referred to under subparagraph subdivision (a) of the
7 state mandate, and shall no later than thirty days after the
8 beginning of the fiscal year notify the appropriate standing
9 committees of the general assembly of the determination and
10 submit one of the following:

11 (I) A statement that the state agency has determined,
12 based on a reestimate of the direct costs of the state
13 governmental mandate, after consultation with local
14 governments, that the amount appropriated is sufficient to pay
15 for the direct costs of the state governmental mandate.

16 (II) Legislative recommendations for either implementing a
17 less costly state governmental mandate or making the state
18 governmental mandate ineffective for the fiscal year.

19 (ii) Provides for expedited procedures for the
20 consideration of the statement or legislative recommendations
21 referred to in subparagraph subdivision part (i) by the
22 general assembly no later than thirty days after the statement
23 or recommendations are submitted to the general assembly.

24 (iii) Provides that the state governmental mandate shall:
25 (I) In the case of a statement referred to in subparagraph
26 subdivision part (i), subpart (I), cease to be effective sixty
27 days after the statement is submitted unless the general
28 assembly has approved the state agency's determination by
29 joint resolution during the sixty-day period.

30 (II) Cease to be effective sixty days after the date the
31 legislative recommendations of the responsible state agency
32 are submitted to the general assembly under subparagraph
33 subdivision part (i), subpart (II), unless the general
34 assembly provides otherwise by law.

35 (III) If the state governmental mandate that has not yet

1 taken effect, continues not to be effective unless the general
2 assembly provides otherwise by law.

3 2. The provisions of subsection 1, paragraph "b",
4 subparagraph (2), subparagraph subdivision (a), shall not be
5 construed to prohibit or otherwise restrict a local government
6 from voluntarily electing to remain subject to the original
7 state governmental mandate, complying with the programmatic or
8 financial responsibilities of the original state governmental
9 mandate, and providing the funding necessary consistent with
10 the costs of state assistance, monitoring, and enforcement.

11 3. a. The provisions of subsection 1 shall apply to all
12 of the following:

13 (1) Any legislative provision increasing direct costs of a
14 state governmental mandate contained in any bill or joint
15 resolution reported out of committee by the committee on
16 appropriations of the senate or the house of representatives.

17 (2) Any legislative provision increasing direct costs of a
18 state governmental mandate contained in any amendment offered
19 to a bill or joint resolution reported out of committee by the
20 committee on appropriations of the senate or the house of
21 representatives.

22 (3) Any legislative provision increasing direct costs of a
23 state governmental mandate in a conference committee report
24 accompanying a bill or joint resolution reported out of
25 committee by the committee on appropriations of the senate or
26 house of representatives.

27 (4) Any legislative provision increasing direct costs of a
28 state governmental mandate contained in any amendments in
29 disagreement between the two houses to any bill or joint
30 resolution reported out of committee by the committee on
31 appropriations of the senate or house of representatives.

32 b. Upon a point of order being made by any senator or
33 representative against any provision listed in paragraph "a",
34 and the point of order being sustained by the presiding
35 officer, the specific provision shall be deemed stricken from

1 the bill, joint resolution, amendment, amendment in
2 disagreement, or conference committee report and shall not be
3 offered as an amendment from the floor.

4 4. For purposes of this section, in the senate, the
5 presiding officer of the senate shall consult with the
6 committee on rules and administration, to the extent
7 practicable, on questions concerning the applicability of this
8 section to a pending bill, joint resolution, amendment,
9 motion, or conference committee report.

10 5. For purposes of this section, in the senate and house
11 of representatives, the levels of state mandates for a fiscal
12 year shall be determined based on the estimates made by the
13 committee on appropriations.

14 Sec. 9. NEW SECTION. 25C.9 ENFORCEMENT.

15 1. It shall not be in order in the senate or house of
16 representatives to consider a rule or order that waives the
17 application of section 25C.8.

18 2. a. This subsection shall apply only to the house of
19 representatives.

20 b. In order to be cognizable by the presiding officer, a
21 point of order under subsection 1 or section 25C.8 must
22 specify the precise language on which it is premised.

23 c. As disposition of points of order under subsection 1 or
24 section 25C.8, the presiding officer shall put the question of
25 consideration with respect to the proposition that is the
26 subject of the points of order.

27 d. A question of consideration under this section shall be
28 debatable for ten minutes by each member initiating a point of
29 order and for ten minutes by an opponent on each point of
30 order, but shall otherwise be decided without intervening
31 motion except one that the senate or house adjourn or that the
32 committee of the whole arise, as the case may be.

33 Sec. 10. NEW SECTION. 25C.10 ESTIMATE OF DIRECT COSTS OF
34 AN AMENDMENT.

35 At the written request of a senator or representative, the

1 director shall prepare, to the extent applicable, an estimate
2 of the direct costs of a state governmental mandate contained
3 in an amendment of the senator or representative.

4 Sec. 11. NEW SECTION. 25C.11 ASSISTANCE TO COMMITTEES
5 AND STUDIES.

6 1. At the request of any standing committee of the senate
7 or the house of representatives, the director shall, to the
8 extent practicable, consult with and assist the committee in
9 analyzing the budgetary or financial impact of any proposed
10 legislation that may have one or more of the following:

- 11 a. A significant budgetary impact on local governments.
- 12 b. A significant financial impact on the private sector.
- 13 c. A significant employment impact on the private sector.

14 2. The director shall conduct continuing studies to
15 enhance comparisons of budget outlays, credit authority, and
16 tax expenditures.

17 3. a. At the request of any chairperson or ranking member
18 of the minority of a standing committee of the senate or the
19 house of representatives, the director shall, to the extent
20 practicable, conduct a study of a legislative proposal
21 containing a state mandate.

22 b. In conducting a study on state governmental mandates
23 under paragraph "a", the director shall do all of the
24 following:

25 (1) Solicit and consider information or comments from
26 elected officials, including their designated representatives,
27 of local governments as may provide helpful information or
28 comments.

29 (2) Consider establishing advisory panels of elected
30 officials, or their designated representatives, of local
31 governments if the director determines that the advisory
32 panels would be helpful in performing responsibilities of the
33 director under this section.

34 (3) To the extent that the director determines that
35 accurate estimates are reasonably feasible, include estimates

1 of the following:

2 (a) The future direct costs of the state mandate to the
3 extent that the costs significantly differ from or extend
4 beyond the five-year period after the state mandate is first
5 effective.

6 (b) Any disproportionate budgetary effects of state
7 mandates upon particular industries or sectors of the economy,
8 and urban or rural or other types of communities, as
9 appropriate.

10 c. In conducting a study on private sector mandates under
11 paragraph "a", the director shall provide estimates, to the
12 extent that the director determines that the estimates are
13 reasonably feasible, of the following:

14 (1) Future costs of private sector mandates to the extent
15 that the private sector mandates differ significantly from or
16 extend beyond the five-year time period referred to in
17 paragraph "b", subparagraph (3), subparagraph subdivision (a).

18 (2) Any disproportionate financial effects of private
19 sector mandates and of any state financial assistance in the
20 bill or joint resolution upon any particular industries or
21 sectors of the economy, and urban or rural or other types of
22 communities, as appropriate.

23 (3) The effect of private sector mandates in the bill or
24 joint resolution on the state economy, including the effect on
25 productivity, economic growth, full employment, creation of
26 productive jobs, and international competitiveness of goods
27 and services.

28 Sec. 12. NEW SECTION. 25C.12 COST OF ADMINISTRATIVE
29 RULES.

30 1. It is the intent of the general assembly that state
31 agencies should review and evaluate planned rules to ensure
32 that the cost estimates provided by the legislative fiscal
33 bureau will be carefully considered as rules are adopted.

34 2. At the request of the committee chairperson or ranking
35 minority member, the director shall, to the extent

1 practicable, prepare a comparison between an estimate by the
2 relevant state agency, prepared under section 25C.14, of the
3 costs of rules implementing an Act containing a state mandate
4 and the cost estimate prepared by the legislative fiscal
5 bureau for the Act when it was enacted by the general
6 assembly.

7 3. At the request of the director of the legislative
8 fiscal bureau, the director of the department of management
9 shall provide data and cost estimates for rules implementing
10 an Act containing a state mandate.

11 Sec. 13. NEW SECTION. 25C.13 FUNDING FOR PRIOR
12 COMPLIANCE.

13 This chapter shall not preclude a local government that
14 already complies with all or part of the state governmental
15 mandates included in a bill, joint resolution, amendment,
16 motion, or conference committee report from consideration for
17 state funding under section 25C.8, subsection 1, paragraph
18 "b", for the cost of the state governmental mandate, including
19 the costs the local government is currently paying and any
20 additional costs necessary to meet the state governmental
21 mandate.

22 Sec. 14. NEW SECTION. 25C.14 REGULATORY STATEMENTS.

23 1. Unless otherwise prohibited by law, before publishing
24 any general notice of proposed rulemaking that is likely to
25 result in adoption of any rule that includes any state mandate
26 that may result in the expenditure by local governments, in
27 the aggregate, or by the private sector, of one hundred
28 thousand dollars or more in any one year, and before adopting
29 any final rule for which a general notice of proposed
30 rulemaking was published, a state agency shall prepare a
31 written statement containing the following:

32 a. An identification of the provision of state law under
33 which the rule is being adopted.

34 b. A qualitative and quantitative assessment of the
35 anticipated costs and benefits of the state mandate, including

1 the costs and benefits to local governments or the private
2 sector, as well as the effect of the state mandate on health,
3 safety, and the natural environment and the assessment shall
4 include the following:

5 (1) An analysis of the extent to which the costs to local
6 governments may be paid with state financial assistance.

7 (2) The extent to which there are available state
8 resources to carry out the state mandate.

9 c. Estimates by the state agency, to the extent that the
10 agency determines that accurate estimates are reasonably
11 feasible, of the following:

12 (1) The future compliance costs of the state mandate.

13 (2) Any disproportionate budgetary effects of the state
14 mandate upon any particular local governments, urban or rural
15 or other types of communities, or particular segments of the
16 private sector.

17 d. Estimates by the state agency of the effect on the
18 state economy, such as the effect on productivity, economic
19 growth, full employment, creation of productive jobs, and
20 international competitiveness of goods and services, to the
21 extent that the state agency in its sole discretion determines
22 that accurate estimates are reasonably feasible and that the
23 effect is relevant and material.

24 e. A description of the extent of the state agency's prior
25 consultation with elected representatives pursuant to section
26 25C.16 of the affected local governments.

27 f. A summary of the comments and concerns that were
28 presented by local governments either orally or in writing to
29 the state agency.

30 g. A summary of the state agency's evaluation of those
31 comments and concerns.

32 2. In publishing a general notice of proposed rulemaking
33 or a final rule for which a statement under subsection 1 is
34 required, the state agency shall include in the publication a
35 summary of the information contained in the statement.

1 3. A state agency may prepare a statement required under
2 subsection 1 in conjunction with or as a part of any other
3 statement or analysis, provided that the statement or analysis
4 satisfies the provisions of subsection 1.

5 Sec. 15. NEW SECTION. 25C.15 SMALL GOVERNMENT PLAN.

6 1. Before establishing any regulatory requirements that
7 might significantly or uniquely affect small governments,
8 state agencies shall have developed a plan under which the
9 state agency shall do all of the following:

10 a. Provide notice of the requirements to potentially
11 affected small governments.

12 b. Enable officials of affected small governments to
13 provide meaningful and timely input in the development of
14 regulatory proposals containing significant state governmental
15 mandates.

16 c. Inform, educate, and advise small governments on
17 compliance with the requirements.

18 2. There are appropriated from the general fund of the
19 state to each state agency to carry out the provisions of this
20 section and for no other purpose, such sums as are necessary.

21 Sec. 16. NEW SECTION. 25C.16 LOCAL GOVERNMENT INPUT.

22 1. Each state agency shall, to the extent permitted in
23 law, develop an effective process to permit elected officers
24 of governments or their designated employees with authority to
25 act on their behalf to provide meaningful and timely input in
26 the development of regulatory proposals containing significant
27 state governmental mandates.

28 2. No later than six months after the date of enactment of
29 this Act, the governor shall issue guidelines and instructions
30 to state agencies for appropriate implementation of subsection
31 1 consistent with applicable laws and rules.

32 Sec. 17. NEW SECTION. 25C.17 LEAST BURDENSOME OPTION.

33 1. Except as provided in subsection 2, before adopting any
34 rule for which a written statement is required under section
35 25C.14, the state agency shall identify and consider a

1 reasonable number of regulatory alternatives and from those
2 alternatives select the least costly, most cost-effective or
3 least burdensome alternative that achieves the objectives of
4 the rule, for:

5 a. Local governments, in the case of a rule containing a
6 state governmental mandate.

7 b. The private sector, in the case of a rule containing a
8 private sector mandate.

9 2. The provisions of subsection 1 shall apply unless one
10 of the following occurs:

11 a. The head of the affected state agency publishes with
12 the final rule an explanation of why the least costly, most
13 cost-effective or least burdensome method of achieving the
14 objectives of the rule was not adopted.

15 b. The provisions are inconsistent with the law.

16 3. No later than one year after the date of the enactment
17 of this Act, the director of the department of management
18 shall certify to the general assembly, with a written
19 explanation, state agency compliance with this section and
20 include in that certification state agencies and rulemakings
21 that fail to adequately comply with this section.

22 Sec. 18. NEW SECTION. 25C.18 ASSISTANCE TO LEGISLATIVE
23 FISCAL BUREAU.

24 The director of the department of management shall collect
25 from agencies the statements prepared under section 25C.14 and
26 periodically forward copies of the statements to the director
27 of the legislative fiscal bureau on a reasonably timely basis
28 after publication of the general notice of proposed rulemaking
29 or of the final rule for which the statement was prepared.

30 Sec. 19. NEW SECTION. 25C.19 PILOT PROGRAM FOR SMALL
31 GOVERNMENTS.

32 1. The director of the department of management, in
33 consultation with state agencies, shall establish pilot
34 programs in at least two state agencies to test innovative and
35 more flexible regulatory approaches that reduce reporting and

1 compliance burdens on small governments and meet overall
2 statutory goals and objectives.

3 2. The pilot programs shall focus on rules in effect or
4 proposed rules, or a combination of those rules.

5 Sec. 20. NEW SECTION. 25C.20 ANNUAL STATEMENTS ON AGENCY
6 COMPLIANCE.

7 No later than one year after the effective date of this Act
8 and annually thereafter, the director of the department of
9 management shall submit to the general assembly, including the
10 committees on state government of the senate and the house of
11 representatives, a written report detailing compliance by each
12 state agency during the preceding reporting period with the
13 requirements of this chapter.

14 Sec. 21. Section 2B.10, subsection 7, Code 1995, is
15 amended to read as follows:

16 7. A notation of the filing of an estimate of a state
17 mandate prepared by the legislative fiscal bureau pursuant to
18 section 25B-5 25C.11 shall be included in the session laws
19 with the text of an enacted bill or joint resolution
20 containing the state mandate.

21 Sec. 22. REPEAL. Chapter 25B, Code 1995, is repealed.

22 EXPLANATION

23 This bill establishes procedures for the general assembly,
24 the legislative fiscal bureau, the department of management,
25 and state agencies to reduce the imposition of state mandates
26 on political subdivisions and the private sector and to
27 curtail state mandates without adequate funding. The bill
28 defines state governmental mandate, private sector mandate,
29 small government, direct cost, direct savings, local
30 government, and related terms. The bill provides specific
31 exclusions such as legislation to protect civil rights,
32 provide emergency relief, and enforce constitutional rights
33 from state mandate procedures.

34 Procedures are specified for legislation containing state
35 mandates in legislative committees and before the houses of

1 the general assembly. Duties are also provided for the
2 legislative fiscal bureau and the department of management
3 relating to determining costs and savings and providing for
4 the implementation of proposed rules.

5 The bill also provides procedures in the rulemaking process
6 so that appropriate costs can be evaluated and paid to
7 political subdivisions. An appropriation is made to state
8 agencies to enable them to assist small governments.

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