

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1192

Introduced by Erdman, 47

Read first time January 18, 2002

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Legislature; to adopt the Unfunded
2 Mandates Reform Act; to provide severability; and to
3 declare an emergency.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as
2 the Unfunded Mandates Reform Act.

3 Sec. 2. For purposes of the Unfunded Mandates Reform
4 Act, the definitions in sections 3 to 5 of this act shall be used.

5 Sec. 3. Direct cost means (1) the aggregate estimated
6 amount that all local governments would be required to spend or
7 would be prohibited from raising in revenue in order to comply with
8 a state mandate or (2) the amount of state financial assistance
9 eliminated or reduced. Direct cost does not include estimated
10 amounts that the state, local governments, or the private sector
11 would spend to comply with or carry out all applicable state and
12 local laws, rules, and regulations in effect at the time of the
13 adoption of the state mandate for the same activity as is affected
14 by the state mandate or to comply with or carry out local
15 governmental programs in effect at the time of the adoption of the
16 state mandate for the same activity as is affected by the mandate
17 or expenditures to the extent that such expenditures will be offset
18 by any direct savings to local governments or the private sector as
19 a result of compliance with the state mandate or other changes in
20 law, rule, or regulation that are enacted by the same legislative
21 bill or adopted in the same rule or regulation and that govern the
22 same activity as is affected by the state mandate. Direct cost
23 shall be determined assuming that the state, local governments, and
24 the private sector will take all reasonable steps necessary to
25 mitigate the costs resulting from a state mandate and will comply
26 with applicable standards of practice and conduct established by
27 recognized professional or trade associations.

28 Sec. 4. Direct savings means the aggregate estimated

1 reduction in costs to any local government and the private sector
2 as a result of compliance with a state mandate.

3 Sec. 5. State mandate means any provision in any
4 legislation, statute, rule, or regulation that would:

5 (1) Impose an enforceable duty upon local governments or
6 the private sector, except (a) a condition of state financial
7 assistance or (b) a duty arising from participating in a voluntary
8 state program; or

9 (2) Reduce or eliminate the amount of state financial
10 assistance provided to local governments or the private sector for
11 the purpose of complying with any previously imposed duty unless
12 the duty is also reduced or eliminated by a corresponding amount.

13 Sec. 6. The Unfunded Mandates Reform Act does not apply
14 to any provision in any legislation, statute, rule, or regulation
15 that:

16 (1) Enforces constitutional rights of individuals;

17 (2) Establishes or enforces any statutory rights that
18 prohibit discrimination on the basis of race, color, religion, sex,
19 national origin, age, handicap, or disability;

20 (3) Requires compliance with accounting or auditing
21 procedures with respect to grants or other money or property
22 provided by the federal government;

23 (4) Provides for emergency assistance or relief at the
24 request of any local government or official of a local government;

25 (5) Relates to schools or state aid to schools; or

26 (6) Is necessary for state or national security.

27 Sec. 7. When a legislative committee advances a
28 legislative bill that includes a state mandate to General File, the

1 committee statement shall contain:

2 (1) An identification and description of the state
3 mandate, including the direct cost to local governments and the
4 private sector required to comply with the state mandate;

5 (2) A qualitative, and if practicable, a quantitative
6 assessment of costs and benefits anticipated from the state
7 mandate, including the effects on health and safety and the
8 protection of the environment;

9 (3) A statement of the degree to which a state mandate
10 affects both the public and private sectors and the extent to which
11 state payment of public sector costs or the modification or
12 termination of the state mandate would affect the balance between
13 local governments and the private sector, including a description
14 of the actions, if any, taken by the legislative committee or
15 introducer to avoid any adverse impact on the private sector or the
16 competitive balance between government and the private sector;

17 (4) A statement of the amount of increase or decrease in
18 funding for existing or new state financial assistance programs
19 provided by the legislative bill;

20 (5) A statement of whether the legislative committee
21 intends that the state mandate be partly or entirely unfunded, and
22 if so, the reason;

23 (6) If the state mandate is funded in whole or in part, a
24 statement of whether and how the legislative committee has created
25 a mechanism to allocate the funding in a manner that is reasonably
26 consistent with the expected direct cost among and between the
27 levels of local government;

28 (7) Any existing sources of state financial assistance in

1 addition to others identified that may assist local governments in
2 meeting the direct cost of the state mandate; and

3 (8) A statement on the extent to which the legislative
4 bill is intended to preempt any local law and an explanation of the
5 effect of such preemption.

6 Sec. 8. (1) For each legislative bill that includes a
7 state mandate advanced to General File by a legislative committee,
8 the Legislative Fiscal Analyst shall prepare a statement of the
9 direct cost of the state mandate in the fiscal year in which the
10 state mandate or any necessary implementing rule or regulation
11 would first be effective or in any of the four fiscal years
12 following such fiscal year. The statement shall include estimates
13 and brief explanations of the basis of the estimates of:

14 (a) The direct cost of complying with the state mandate;

15 (b) If the legislative bill requires an appropriation,
16 the amount of appropriations for each fiscal year beyond the
17 effective date of the state mandate necessary for the direct cost;
18 and

19 (c) The amount, if any, of increase in appropriation
20 under existing state financial assistance programs or of new
21 appropriation for new state financial assistance useable by local
22 governments.

23 (2) If the Legislative Fiscal Analyst determines that it
24 is not feasible to make a reasonable estimate under this section,
25 he or she shall not make the estimate but shall report in the
26 statement that the reasonable estimate cannot be made and include
27 the reasons for his or her determination.

28 (3) If the Legislative Fiscal Analyst estimates that the

1 direct cost of a state mandate will be zero, he or she shall so
2 state and briefly explain the basis of the estimate.

3 (4) The legislative committee shall include the statement
4 of the Legislative Fiscal Analyst in the committee report.

5 (5) If a legislative bill is amended and the amended bill
6 contains a state mandate not previously considered by the
7 legislative committee to which it was assigned or contains an
8 increase in the direct cost of a previously considered state
9 mandate, the Legislative Fiscal Analyst shall prepare a statement
10 as provided in subsection (1) of this section or a supplemental
11 statement.

12 (6) At the written request of a member of the
13 Legislature, the Legislative Fiscal Analyst shall, to the extent
14 practicable, prepare an estimate of the direct cost of a state
15 mandate contained in an amendment prepared by the member.

16 Sec. 9. The Unfunded Mandates Reform Act applies to any
17 legislative bill, amendment, or motion that reauthorizes
18 appropriations or that amends existing appropriations to carry out
19 any statute or that otherwise amends any statute if enactment of
20 the legislative bill or adoption of the amendment or motion would
21 result in:

22 (1) A net reduction in or elimination of appropriations
23 for state financial assistance that would be provided to local
24 governments or the private sector for use for the purpose of
25 complying with any state mandate and not eliminate or reduce duties
26 established by the state mandate by a corresponding amount; or

27 (2) A net increase in the aggregate amount of direct cost
28 of state mandates other than as described in subdivision (1) of

1 this section.

2 Sec. 10. If any section in this act or any part of any
3 section is declared invalid or unconstitutional, the declaration
4 shall not affect the validity or constitutionality of the remaining
5 portions.

6 Sec. 11. Since an emergency exists, this act takes
7 effect when passed and approved according to law.