

FEDERAL MANDATES
Report to the 58th Legislative Assembly

from the Office of Budget and Program Planning
As Required by 2-1-407, MCA

This summary report is provided in accordance with Title 2, Chapter 1, part 4, MCA, which requires that state programs meet the requirements of federal statutes in good faith and with a critical view toward any federal regulations, guidelines, or policies, with due consideration of the financial restraints of local governments, the citizens of Montana, and the state, including the limitation imposed by Article III, Section 9 of the Montana Constitution.

As adopted in 1995, *Chapter 385, Laws of Montana*, requires each state agency that is charged with implementing federal mandates to provide information regarding the cost of federal mandates. The table on page 2 identifies some of the most costly and burdensome federal mandates to the State of Montana. The total known costs identified by state agencies are about \$109 million per year, but most costs are being reported as unknown. These are federal mandates for which no cost estimates are available, primarily due to lack of research resources. Given the shortfall of revenue, directing additional resources to studying federal mandates does not appear likely.

A few of the more costly mandates already have been repealed as a result of the federal Unfunded Mandates Reform Act of 1995, P.L. 104-4, which required three new activities: Congressional Budget Office cost estimates with a point of order procedure against new mandates costing over \$50 million; federal agency cost-benefit analyses of new regulations that cost over \$100 million; and a study of existing mandates by the Advisory Commission on Intergovernmental Relations (ACIR). The federal act appeared to fulfill its goal at least for several years.

The Governor's 2005 biennium budget makes several recommendations to change state statutes or to fund proposals to implement federal mandates or to conduct research that may enable the state to mitigate past or future federal mandates. In response to the significant increase of federal funds for K-12 education, the administration proposed SB 323 which would require retirement, social security and unemployment insurance costs to be paid for by the funds paying the salary, rather than 100 percent by the state general fund and by local taxpayers. In the Department of Transportation there is \$1 million of state special highway gas tax funding in New Proposal 211 to convert from metric to English measures, which reverses a prior federal mandate that we convert to metric in the first place. Moreover, SB 13 was introduced for .08 DUI minimum BAC so \$10 million in the 2005 biennium will not be diverted from state highway construction and SB 39 to prohibit open containers in vehicles will prevent \$5.6 million per year from being diverted. In the Department of Fish, Wildlife and Parks there are considerable sums of state special and federal funds for a variety of management plans and interventions to work towards preventing certain animals such as sage grouse and paddlefish from being added by federal action to threatened or endangered species lists or to manage those such as grizzly bears and wolves already listed.

A copy of the instructions and the form that was used to survey state agencies in preparation of this report are attached following the summary table. Legislative questions or input for the 59th Legislative Assembly will be welcome.