

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

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To: 63rd Legislative Assembly
From: Dan Villa, Budget Director *Dan Villa*
Office of Budget and Program Planning
Date: January 7, 2013
Subject: Federal Mandates 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.

This report requires by Title 2, Chapter 1, part 407, MCA, each state agency implementing federal mandates to provide information regarding the cost of federal mandates. The table 1 identifies some of the most costly and burdensome federal mandates to the State of Montana as identified for the 2015 biennium of which there were five notable mandates submitted by agencies for \$89.7 million, approximately seventy-six percent of the total annual costs of federal mandates to the agencies. Table 2 provides a list of all identified mandates submitted by state agencies. The total cost identified by state agencies is approximately \$117.7 million per year. Other federal mandates for which the cost estimates are unknown due to lack of research resources and other factors are also listed.

Table 1

Citation	Title	Notes	Est. Annual Cost to State (millions)
P.L. 108-446	Individuals with Disabilities Education Improvement Act of 2004	IDEA remains a longstanding unfunded mandate that establishes requirements for states without providing adequate or even promised funding levels to achieve its goals.	\$48.4
P.L. 105-521	Child Support Enforcement Act	Makes it a federal crime to fail to pay child support. Parents who flee a state owing at least \$5,000 or have failed to pay support for at least one year could face six months in jail and/or fines of up to \$5,000. Repeat offenders could get up to two years in jail and fines of up to \$250,000.	\$15.5
P.L. 100-4, 95-21, 92-500	Clean Water Act	In general, this law establishes the basic structure for regulating discharges of pollutants into the waters of the United States. It gives EPA the authority to implement pollution control programs such as setting wastewater standards for industry. Mandates on states include the development of individual control strategies for toxic pollutants in streams that are not meeting water quality standards. A number of the requirements on states were further defined in the rule making process. The 1987 amendments included a phase-out of the construction grants program, replacing it with the State Water Pollution Control Revolving Fund, more commonly known as the Clean Water State Revolving Fund (SRF).	\$10.0
P.L. 104-182, 99-339, 93-523	Safe Drinking Water Act Amendments (and previous versions, original Act passed in 1974, amended in 1986 and 1996)	Requirements on states include to conduct assessments of water supplies, certify water system operators, provide emergency water supplies, map critical aquifer areas, establish wellhead protection areas, survey Class V wells, test contaminants of public water systems, and enforce the use of nonlead materials.	\$10.0
P.L. 97-300	Wagner Peyser Act	Establishes a national system of public employment offices. In order to be eligible for federal assistance, a state must designate or authorize the creation of a state agency to federal assistance, a state must designate or authorize the creation of a state agency to submit to the Secretary of Labor a detailed state plan for carrying out the provisions of the act in cooperation with the United States Employment Service.	\$5.8

Table 2 Submission of Federal Mandate Costs by State Agencies

Agency	Description of Mandate & Reference	OTO *	Annual Cost In Millions
**Statewide	Individuals with Disabilities Education Act - Statewide		\$ 48.384
**Statewide	The Age Discrimination Act of 1975		unknown
**Statewide	Family and Medical Leave Act of 1993		unknown
**Statewide	Equal Employment Opportunity responsibilities - Title VII CRA (1964, as amended)		unknown
**Statewide	The Americans with Disabilities Act of 1990		unknown
**Statewide	The Drug-Free Workplace Act		unknown
**Statewide	Fair Labor Standards Act (29 CFR 541)		unknown
**Statewide	Section 504 of the Rehabilitation Act of 1973 vis-à-vis Americans with Disabilities Act		unknown
**Statewide	Equal Pay Act of 1963		unknown
MBCC/4107	Juvenile Justice & Delinquency Prevention Act as amended(PL93-415(1974) Compliance Monitoring		\$ 0.080
MBCC/4107	Violence Prevention Act of 1993 Public Law 103-159. The law requires a qualifying state to report mental defectives to NICS and establishes a mandatory penalty. FY 2011 Byrne Grant 3% penalty if state has less than 50% record completeness. FY 2013 Byrne Grant 4% penalty if state has less than 70% record completeness. FY 2017 Byrne Grant 5% penalty if state has less than 90% record completeness.		\$ 0.046
DoJ/4110	Adam Walsh Child Protection & Safety Act (PI 109-248)		\$ 0.065
DoJ/4110	Federal law requires that laboratories submitting DNA data to NDIS are accredited by a nonprofit professional association of persons actively engaged in forensic science that is nationally recognized within the forensic science community. The following entities have been determined to satisfy this definition: The American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) and Forensic Quality Services, Inc. (FQS)		\$ 0.033
MUS/5102	Patient Protection & Affordable Care Act Comparative Effectiveness Research Fee		\$ 0.015
MUS/5102	Student Right to Know and Campus Security Act (P.L. 101-542)		\$ 0.085
MUS/5102	Title IV withdrawal refund		\$ 0.061
MUS/5102	Federal student aid disbursement (Fed admin reg)		\$ 0.518
MUS/5102	Perkins Student Loan Program (Fed admin reg)		\$ 0.133
MUS/5102	Student assistance general provisions (Fed admin reg)		\$ 0.150
MUS/5102	Family Parent loan Program (Fed admin reg)		\$ 0.077
MUS/5102	Health Omnibus Program Extension of 1988 (P.L. 100-607)		unknown
MUS/5102	Cost accounting standards and disclosure statement requirements (Fed admin reg)		\$ 0.010
MUS/5102	30 day delay disbursement (Fed admin reg)		\$ 0.008
MUS/5102	Bankruptcy Law in regard to student financial aid		\$ 0.002
MUS/5102	Repayment and collection of nursing student loans (Fed admin reg)		\$ 0.030
MUS/5102	Title IV, crediting a student account (Fed admin reg)		\$ 0.044
MUS/5102	Federal Direct/Stafford Loan		\$ 0.104
MUS/5102	Nursing Student Loan Program		\$ 0.010
MUS/5102	Pell Grant Program		\$ 0.075
MUS/5102	Withholding tax on nonresident aliens		\$ 0.036
MUS/5102	Repayment and collection of student loans		\$ 0.305
MUS/5102	Taxpayer Relief Act Reporting (1098 Reporting)		\$ 0.020
MUS/5102	Americorp/Community Service		\$ 0.010
MUS/5102	Ag Research, Ext., and Ed. Reform Act of 1998		\$ 0.067
MAC/5114	A-133 Audit Requirements		unknown
MAC/5114	Matching (Cost Share) Requirements		unknown
MAC/5114	Recordkeeping Retention Requirements (3 years)		unknown
MAC/5114	Procurement Standards		unknown
MAC/5114	Cost Principles of OMB Circular A-87, "Cost Principles for State and Local Governments"		unknown
MAC/5114	Title VI of the Civil Rights Act of 1964		unknown
MAC/5114	Title IX of the Education Amendments of 1972		unknown
MAC/5114	The National Environmental Policy Act of 1969		unknown
MAC/5114	Debarment and Suspension		unknown
MAC/5114	The Native American Graves Protection and Repatriation Act of 1990		unknown
MAC/5114	The National Historic Preservation Act of 1966		unknown
MAC/5114	U.S. Constitution education program		unknown
MAC/5114	Arts Endowment enabling legislation. You are also required to execute projects, productions, workshops and programs in accordance with the Arts Endowment's enabling legislation that requires —artistic excellence and artistic merit to be included in the criteria upon which awards are made.		unknown
MAC/5114	General Subgranting Requirements		unknown
FWP/5201	National Historic Preservation Act Section 106 (36 CFR 800 and 16 USC Section 470 (f))		\$ 0.100
FWP/5201	Land & Water Conservation Fund Act interpretation (Part 522, USF&W Service Manual, Sect. 7.7.b and 16 USC Section 4601-8(f)(1))		\$ 0.140
FWP/5201	Recreational Boating Safety Act (46 USC Section 13102(a)(3) and 13103 (a)(3))		unknown
FWP/5201	Farmland Protection Policy Act (7 CFR 658 and 7 USC 4202 (a))		unknown
FWP/5201	Resource Conservation and Recovery Act (Fed admin reg)		\$ 0.008
FWP/5201	Cost accounting standards and disclosure statement requirements (Fed admin reg)		\$ 0.010
DEQ/5301	Federal clean Air Act case-By-Case MACT Air Toxics (FCAA Section 112(j))		\$ 0.022
DEQ/5301	Federal clean Air Act Accidental Release (FCAA Section 112r)		unknown
DEQ/5301	Whole Effluent Toxicity (WET) Testing (CWA P.L. 92-500 Section 101(a)(3) & 40 CFR 122.21(j)(1))		\$ 0.055
DEQ/5301	1986 Amendments to the Safe Drinking Water Act (42 USC 300f and 40 CFR 141, 142)		unknown
DEQ/5301	Storm Water Provisions of Clean Water Act (40 CFR 122, 123, 1240)		\$ 0.473
DEQ/5301	Hazardous Waste Disposal (Fed admin reg)		unknown
DEQ/5301	SARA Title 3, Reporting Hazardous Material (Fed admin reg)		unknown
DEQ/5301	Clean Water Act, sewage discharge regulations		unknown
DEQ/5301	Asbestos Abatement Regulations (Fed admin reg)		unknown
MDOT/5401	Conformity of Transportation with air quality (40 USC 176c)		\$ 2.200
MDOT/5401	Adoption of ECVISN architectural standards and FMCSA CVISN program requirements (Terms of ECVISN Grant Agreement) and Laptop Encryption Policy SP-11-002-CE		\$ 1.180

Table 2 con't

Agency	Description of Mandate & Reference	OTO *	Annual Cost In Millions
MDOT/5401	Annual certification of MCSAP (Motor Carrier Safety Assistance Program) program qualifications, including MOE (Maintenance of Effort), program plan and compatibility of state laws and regulations. (49 CFR, Part 350, Subpart B and Subpart C) and		\$ 2.870
MDOT/5401	Annual certification of Size and Weight Enforcement Plan (23 CFR Part 657.19)		\$ 9.010
MDOT/5401	Value Engineering & Life Cycle Costs PROSPECTIVE (59 Fed Register 59182, Nov, 16, 1994) "Varies for Construction projects		\$ 0.110
MDOT/5401	Omnibus Trade & Competitiveness Act of 1988 Metrification (P.L. 100 41R section 5164)		unknown
MDOT/5401	Drug & Alcohol Testing EBT device standards (49 CFR Part 40)		\$ 0.040
MDOT/5401	Drug & Alcohol Testing (49 CFR Parts 40 & 382)		\$ 0.050
MDOT/5401	Control of Outdoor Advertising (23 USC Section 131 and 23 CFR Ch. 1 Sec. 750) "if failed to meet CFR, penalty of 10% for		\$ 0.220
MDOT/5401	Clean Water Act Permit Conditions (33 USC Section 1251-1376, 33 CFR Part 330 Appendix A)		\$ 2.540
MDOT/5401	FAA FAR Part 139 Airport Standards		\$ 0.460
MDOT/5401	GASB 49 Pollution Remediation EPA Liability at the state owned Lincoln Airport		unknown
DOL/5603	FSIS Meat Inspection 10-475		\$ 0.700
DOL/5603	Shell Egg - Milk and Egg Inspection 10-162		\$ 0.035
DOL/5603	Cattle Health 10-025		\$ 0.716
DOL/5603	ADT Animal Disease Traceability 10-025		\$ 0.150
DOL/5603	USDA/APHIS Other Grants (Swine, FAD, NAI, Scrapie, MMLR) 10-025		\$ 0.103
DNRC/5706	Wastewater Treatment Revolving Fund (P.L. 82-500 Clean Water Act as amended 33 USC, 1251-1387)		\$ 10.000
DNRC/5706	Arbitrage Calculation - IRS Code - Treasury Regulations Section 1.148-2(b)		\$ 0.100
DNRC/5706	Safe Drinking Water Act - Title XIV of Public Health Service Act as amended 42 USC 300f, et. seq.		\$ 10.000
DNRC/5706	Safe Drinking Water Act - Sec. 1443(b)		\$ 0.028
DOR/5801	4R Act/Little 4R Act		\$ (4,924)
DOR/5801	Internet Tax Freedom Act		\$ (2,734)
DOR/5801	Reduction of US Mineral Royalties from 50% to 48%		\$ (0,960)
DOR/5801	PL672 - Limitation of State Corporation Income Tax		\$ (1,500)
DoFA/6101	Fair Labor Standards Act (29 CFR 541)		unknown
DoFA/6101	Cash Management Improvement Act		\$ 0.010
DoFA/6101	Statewide Cost Allocation Plan (SWCAP)		\$ 0.030
DoFA/6101	Fair Labor Standards Act overtime provisions		unknown
DoFA/6101	OMB Circular A-110 required cost analysis for procurement actions		unknown
DoFA/6101	ADA Self Regulation Project (Fed admin reg)		unknown
DoFA/6101	Consolidated Omnibus Reconciliation Act of 1985 (COBRA)		\$ 0.067
DoFA/6101	The Patient Protection and Affordable Care Act		\$ 9,780
DoFA/6101	American Recovery & Reinvestment Act (ARRA)		unknown
DoFA/6101	Social Security Administration		\$ 0.090
LRBP/6107	Environmental hazard requirements		unknown
COR/6401	Prison Rape Elimination Act		\$ 0.066
DLI/6602	Wagner Peysor Act. Montana receives approx. \$5.2 million of Wagner Peysor (WP) funding per year. This figure has fluctuated very little over the past 25 years. Montana supplements the programs included in the Wagner Peysor Act (WP) by more than the original funding each year. WP covers underfunded federal programs such as the Veteran's Program (DVOP/LVER), Foreign Labor (H2A / H2B), and Workforce Investment Act. For example, Montana only receives \$75,000 for the Foreign Labor program. The program actually costs us approximately \$150,000. Montana asked to give up the program and was told that we		\$ 5,750
DLI/6602	Trade Assistance Adjustment (TAA) (funding fluctuates depending on the number of petitions certified by USDOL)		\$ 0.450
DLI/6602	Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.)		\$ 0.311
DLI/6602	Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3301 et seq.)		\$ 1.015
DLI/6602	Social Security Act (42 U.S.C. 501 et seq.)		\$ 1.493
DLI/6602	The Federal reporting requirement comes from Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007.		\$ 0.005
DMA/6701	Pass Through Homeland Security from DES - 97-067 (One Time Only)		\$ 0.400
DPHHS/6901	Child and Family Services Improvement Act of 2006 - Monthly Visits (Continued)		\$ 0.053
DPHHS/6901	Fostering Connections to Success Act: Educational Planning and Stability		\$ 0.020
DPHHS/6901	Child Support Enforcement Division-All division activities are federally mandated under Title IV-D of the Social Security Act, 42 USC 651 et seq., and 45 CFR, Chapter 3.		\$ 15,500
DPHHS/6901	Patient Protection and Affordable Care Act - Health Care Reform Drug Rebate Supplemental changes		unknown
DPHHS/6901	CHIPRA - Changes in perspective payment system concerning FQHC and RHC		\$ 0.300
DPHHS/6901	CHIPRA - Mental Health and Substance Abuse parity		unknown
DPHHS/6901	CHIPRA - Dental coverage - required dental services		unknown
DPHHS/6901	CHIPRA - Deemed Newborn coverage		unknown
DPHHS/6901	Patient Protection and Affordable Care Act - Health Care Reform Systems changes		unknown
DPHHS/6901	Medicare and Medicaid Programs: Electronic Health Record Incentive Program 75F.R. CMS - 0033-P - audit requirements		unknown
DPHHS/6901	PERM - comply with Improper Payment Information Act of 2002. PL107-300		\$ 0.300
DPHHS/6901	Medicare and Medicaid Programs: Electronic Health Record Incentive Program 75F.R. CMS - 0033-P - facility recordkeeping		unknown
Total:		\$0.0000	\$ 117.204
STATEWIDE TOTAL AS REPORTED BY RESPONDING STATE AGENCIES (OTO included)			
*Designated as One-Time-Only costs			
Suggested Changes to State Statute that would create Savings or Reductions if adopted			
MDOT/5401	Repeat Offender Law (Without repeat offender legislation, \$7.9-million federal funds will be diverted to safety programs).		