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103D CONGRESS
1ST SESSION

# S. 1606

To provide Federal assistance to States and local governments required to comply with direct cost Federal mandates.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 1 (legislative day, OCTOBER 13), 1993

Mr. SASSER (for himself and Mr. MATHEWS) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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# A BILL

To provide Federal assistance to States and local governments required to comply with direct cost Federal mandates.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Federal Mandate Funding Act of 1993''.

**SEC. 2. DEFINITIONS.**

For the purposes of this Act—

(1)(A) The term ''Federal mandate'' means a Federal law or regulation that requires a State or unit of general local government to carry out an ac-

tion for which the State or unit of general local government incurs a direct program cost.

(B) Such term does not include laws or regulations—

(i) enforcing the Constitutional or statutory rights of individuals; or

(ii) requiring a State or unit of general local government to contribute matching amounts of funding as a condition for receiving Federal grant assistance.

(2) The term ''Secretary'' means the Secretary of the Treasury.

(3) The term ''State'' has the same meaning as in section 6501(8) of title 31, United States Code.

(4) The term ''unit of general local government'' has the same meaning as in section 6501(9) of title 31, United States Code.

**SEC. 3. MORATORIUM.**

(a) IN GENERAL.—For the period beginning on the date of enactment of this Act and ending 2 years after such date, any duty or requirement imposed by Federal statute or regulation that creates a Federal mandate shall not apply to a State or unit of general local government unless the State or unit of general local government receives a Federal share toward the cost of such mandate.

(b) APPLICATION.—This section shall apply only to statutes or regulations that take effect on or after the date of the enactment of this Act.

**SEC. 4. FEDERAL MANDATE ASSISTANCE FUND.**

(a) ESTABLISHMENT AND ADMINISTRATION OF FUND.—There is established in the Department of the Treasury a Federal Mandate Assistance Fund (referred to as the ''Fund''), which shall consist of amounts appropriated to the Fund.

(b) PAYMENT AND USE.—

(1) PAYMENT.—The Secretary shall pay from the Fund, to each State which qualifies for a payment under this section, an amount equal to the sum of any amounts allocated to the State under this section at the beginning of each fiscal year.

(2) USE.—Amounts paid to a State under this section, and allocated and paid to units of general local government within such State under this section, shall be used by such State and units of general local government to reimburse the costs of Federal mandates.

(c) QUALIFICATION FOR PAYMENT.—Under regulations issued by the Secretary, a State shall qualify for payment of the amount allocable to it under subsection (d)

only after it has furnished, to the Secretary's satisfaction, the following:

(1) STATE AND LOCAL MANDATE COSTS.—The State shall furnish, and the Secretary shall certify, an estimate of the combined cost to the State and to units of general local government within such State of Federal mandates during the next fiscal year.

(2) FORMULA FOR ALLOCATION TO UNITS OF GENERAL LOCAL GOVERNMENT.—The State shall submit, and the Secretary shall approve, a plan for the allocation to units of general local government in the State, out of the amount allocated to the State under this section, in conformance with the conditions and criteria set forth in subsection (d).

(d) ALLOCATION FORMULAS.—

(1) STATE ALLOCATIONS.—(A) Under regulations issued by the Secretary, the Secretary shall allocate to each State, out of the amount authorized for the period under subsection (b), an amount proportionate to the product of—

(i) the total estimated cost of Federal mandates to the State, and units of general local government in the State, as a ratio of the

total estimate of such costs for all States, multiplied by

(ii) the need factor of the State as a ratio of the combined need factor of all States.

(B) The need factor shall be the product of—

(i) the population of the State;

(ii) the relative per capita income of the State;

(iii) the general tax effort factor of the State; and

(iv) the relative fiscal gap factor of the State.

(2) ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT.—

(A) SET-ASIDE OF FUNDS.—Each State shall set aside, out of the amount paid to it by the Secretary under this section, an amount equal to the ratio which the federal mandate costs of all units of general local government in the State bear to the combined Federal mandate costs of both the State and its units of general local government.

(B) PAYMENT OF FUNDS.—Under the plan submitted by the State for approval by the Secretary, pursuant to subsection (c)(2), the State

shall pay to each unit of general local government in the State, from the amount set aside under subparagraph (A), an amount proportionate to the product of—

(i) the cost of Federal mandates to such unit of general local government, as a ratio of the cost of such mandates to all units of general government in the State; and

(ii) the local need factor of such unit of general local government, defined as the product of its population, relative per capita income, and general tax effort factor.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

**SEC. 5. REQUIREMENT OF IMPLEMENTATION PROVISION; POINT OF ORDER.**

Section 403 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(d) POINT OF ORDER.—

''(1) GENERAL RULE.—(A) Except as provided by paragraph (2), it shall not be in order in the Senate to consider any bill or resolution which would

impose any duty or requirement on State or local governments which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more with respect to any particular program, project, or activity, unless such bill or resolution contains an implementation provision setting forth the Federal share of such cost.

''(B)(i) The Federal share of costs referred to in subparagraph (A) shall be not less than 20 percent of the costs incurred by the State or local government in meeting direct program costs.

''(ii) The Federal share of costs referred to in subparagraph (A) may include—

''(I) reimbursement for direct administrative costs of State and local governments in implementing the program, project, or activity; and

''(II) Federal cost-sharing or matching grant funding.

''(C) A point of order made under this subsection may be waived in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any bill or resolution, including any amendment thereto or conference report thereon, which is in compliance with any order issued under either section 251(b)(2)(D) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(3) DEFINITION.—For purposes of this subsection—

''(A) The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

''(B)(i) The term 'Federal mandate' means a Federal law or regulation that requires a State or local government to carry out an action for which the State or local government incurs a direct program cost.

''(ii) Such term does not include laws or regulations—

''(I) enforcing the Constitutional or statutory rights of individuals; or

''(II) requiring a State or local government to contribute matching amounts of funding as a condition for receiving Federal grant assistance.''.

**SEC. 6. EFFECTIVE DATE.**

The provisions of this Act shall take effect on the date of enactment of this Act.

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