

**A REPORT DESCRIBING THE EFFORTS
OF THE
GOVERNOR'S TASK FORCE
TO REDUCE STATE MANDATES
ON LOCAL GOVERNMENTS**

MANAGEMENT ANALYSIS DIVISION

DEPARTMENT of ADMINISTRATION

NOVEMBER 1982



STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
SAINT PAUL 55155

OFFICE OF THE
COMMISSIONER

TEL. NO. 296-3862

November 24, 1982

The Honorable Albert H. Quie
Governor
State of Minnesota
130 State Capitol
St. Paul, Minnesota 55155

Dear Governor Quie:

I am pleased to submit the final report of the Task Force to Reduce State Mandates on Local Government.

The report contains recommendations to modify or eliminate twenty-nine state mandates on local government. A few of these will result in immediate and significant cost savings to local governments, and others will remove unnecessary burdens from them.

The work of this task force was heavily supported by organizations representing different groups of local governments. This really is their report in the sense that operating procedure of the task force was to ask them to identify burdensome mandates for consideration by the task force.

This is a complex and somewhat sensitive area. I believe the state will be making a giant stride in improving cooperation among government units if we see to it that the recommended changes occur. In most cases, they will require changes in legislation. I recommend that you forward this report to the affected agencies with instructions to initiate the recommended changes. Local government officials will support this effort and, if we are successful in obtaining most of the changes, they will participate in this process on an on-going basis.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James J. Hiniker, Jr.", written in dark ink.

James J. Hiniker, Jr.
Commissioner

PREFACE

The burden imposed by state mandates on local units of government is a long-standing issue. In May, 1982, the Governor responded to local government concerns by establishing a "Task Force to Reduce State Mandates on Local Government". The Task Force, which was enthusiastically endorsed and supported by local government, was charged with: a.) identifying mandates which place undue burden on local government units, and b.) formulating recommendations for their modification or elimination. The following report describes the problem, the methodology used in the study, and the recommendations being made to the Governor.

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INTRODUCTION

A mandate is a law, rule, regulation, or court order requiring action on the part of local government. A mandate may either require local governments to provide a service to its citizens or dictate methods for providing existing services. In either case, the mandate is burdensome if funds for compliance do not accompany the mandate, hence forcing local governments to take funds away from programs of their choice in order to comply with the new mandate. Local governments use money raised through property taxes, fees, fines, licenses, and funds provided by the federal or state government to pay for services.

Many local governments are experiencing a decline in available resources. Not only are their revenues declining, but federal and state aid is being cut. If a mandate directs local governments to provide additional services without providing adequate funds, and all local government funds are already allocated, mandates become particularly problematic. Either local programs suffer or taxpayers suffer through increased taxes. In an attempt to reduce the burden on local government taxpayers, Governor Quie requested that a study be conducted to identify mandates which unnecessarily burden local governments and make recommendations to maintain, modify, or eliminate those mandates.

METHODOLOGY

From the onset of this project, it was determined that the recommendations to maintain, modify, or eliminate mandates would come from representatives of local government. The role of state officials would be to assist the process of developing those recommendations and facilitate implementation. Therefore, to initiate the project, a "Task Force to Reduce State Government Mandates on Local Governments" was formed. Membership consisted of representatives from municipalities, counties, and townships and selected state department heads. A list of Task Force members can be found in Appendix A. The Task Force was responsible for:

1. Reviewing problematic mandates identified in previously conducted studies.
2. Taking immediate action on those mandates for which no administrative or legislative action was required in order to make the recommended change.
3. Identifying those mandates requiring administrative action; providing a rationale, action plan, and timeline for elimination or modification of those mandates.
4. Identifying those mandates which can be eliminated or changed only by legislative action. Developing a set of proposals for submission to the 1983 Legislature.

In order to fulfill these objectives the Task Force divided the mandates identified in studies conducted by the Department of Revenue, Department of Energy, Planning, and Development and from proposed legislation into four general categories. The categories were: Human Services, General Government, Education, and Physical Development. "Working Committees" were organized for each area. They were staffed by individuals recommended by members of the Task Force and asked to gather the information needed to make valid recommendations, including the rationale for any actions to be taken by the Task Force. The working committees' responsibilities were to:

1. Focus, review, and discuss their assigned topics.
2. Identify specific mandates within the committee's assigned area which needed review.
3. Determine whether the specified mandates should be eliminated, changed, or maintained.
4. Make recommendations to the Task Force, including a rationale for the action to be taken on mandates to be eliminated or modified.
5. Prepare recommendations for the Task Force on mandate reimbursement programs and on a legislative fiscal note process. (See Appendix B for listing of membership on the Working Committees.)

¹ "The Levy Limit". Minnesota Department of Revenue. January, 1982.

² "State to Local Mandating in Minnesota: Background Research and Discussion of the Problem." Fiscal Studies of the Office of Local and Urban Affairs, Minnesota Department of Energy, Planning, and Development (shifted from State Planning Agency). April, 1981.

RECOMMENDATIONS

The Task Force reviewed the findings of the four working committees and finalized recommendations which fall into the following areas:

- I. Specific mandate recommendations.
- II. Fiscal note process.
- III. On-going review process.
- IV. Modifications to current rulemaking procedures.

I. MANDATE RECOMMENDATIONS

Following is a summary of all mandates reviewed by the four working committees. Recommendations are presented by mandate areas: General Government, Education, Physical Development, and Human Services. In each case, mandates are identified by statute number and title. The recommended action is stated along with the rationale supporting the recommendations.

GENERAL GOVERNMENT COMMITTEE RECOMMENDATIONS

MANDATE (Statutory Titles)	RECOMMENDED ACTION
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M.S. 275.50 - 275.56 Levy Limits	Eliminate.
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RATIONALE: Currently, local governments are limited in their tax levy authority. The Committee finds no consistent philosophy guiding state mandated local levy limits. One intent seems to be the promotion of fiscal restraint and responsibility on the part of local governments. But, as several Committee members pointed out, the limits actually appear to result in less fiscal responsibility. Many local governments levy the maximum because it is difficult to anticipate legislative actions concerning state aids from session to session. Additionally, the priority decision process of local government officials has become distorted. Where levy limits are unduly restrictive, decisions which should be based only on the need for the service may often hinge instead on whether or not funds can be provided within the levy limits. The Committee explored several ways in which the levy limits could be amended to make them more responsive to local government concerns, but all proposals were deemed less satisfactory than total elimination of local levy limits. This recommendation does not apply to those levies which are authorized in M.S. 275.125 for school districts. These levies are for the most part power equalized and provide generally equal revenue per pupil according to statutory formulae.

M.S. 471.616 Group Insurance; Governmental Units	Eliminate.
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MANDATE (Statutory Titles)

RECOMMENDED ACTION

RATIONALE: Political subdivisions are mandated to maintain the aggregate value of benefits of group health insurance for employees, unless the employees agree to the change. This mandate can prevent the adoption of new types of group health plans which can benefit all the concerned parties. Insurance should be considered to be part of the benefit package developed through the bargaining process.

M.S. 383.05 Statements by Auditor	Modify to allow semi-annual statements.
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RATIONALE: Currently it is required that at each regular meeting of the county board, the county auditor presents a statement, which forms a part of the minutes of the official proceedings, showing the apportionments made to each fund and the balances remaining. The Committee feels that semi-annual reporting of this information is all that is necessary.

M.S. 392.08	Eliminate requirement for a director.
Director of Purchasing;	
Employees.	

M.S. 392.09 Modify "shall promulgate" to "may promulgate".
County Purchasing Department
Rules and Regulations

RATIONALE: The current mandate states that "the county board shall appoint a director of purchasing to direct and supervise the operations of the county purchasing department. The county board shall promulgate such rules and regulations as are necessary to carry out the creation of a county purchasing department". The county officials surveyed responded strongly against these statutes, and the Committee concurs with these findings. These requirements should not be forced upon county governments -- many are too small to appoint a full-time director of purchasing, and do not need a separate county purchasing department. The Committee recommends modifying these mandates; in both cases, the word "shall" should be changed to "may".

M.S. 15.1611 to 15.1698 Minnesota Government Data Practices Act	Comprehensive review.
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RATIONALE: In discussions on the Minnesota Data Practices Act, it was recognized that these statutes are necessary for public accountability. However, committee members feel it is possible to carry out the intent of these statutes in a more effective and efficient manner. The Committee recommends a comprehensive review of the statutes, with the purpose of amending provisions which are difficult to implement, and to take into greater consideration the needs and capabilities of local communities and counties to administer and fulfill these mandates. The Committee recommends consideration of the Uniform Information Practices Code (S.F. 198, 1981 Session) as a means of resolving some of the problems in the implementation of the current act.

MANDATE (Statutory Titles)

RECOMMENDED ACTION

Chapter 273 (1980 Statutes)
Taxes; Listing, Assessment

Comprehensive review.

RATIONALE: Current law requires approximately fifty different combinations of classifications, credit calculations, and mill rate differentials. The Committee recommends a thorough evaluation of the system, resulting in a greatly simplified property tax system. This will reduce the high costs of administering and implementing the present, very complicated system.

M.S. 279.01
Delegation of Abatement
Authority

Extend abatement authority to county auditor.

RATIONALE: Currently, the county board may delegate to the county treasurer the power to abate the penalty for late payment of homestead taxes delinquent for less than thirty days. Current law limits the delegation of county government authority for tax abatement penalties to thirty days. The Committee recommends an extension of this discretionary authority to the county auditor or the county treasurer, for all delinquent property taxes without time limitations.

M.S. 92.23
Payments; Receipts;
Liability of Officials

Modify language to only require the "appropriate number of receipts".

RATIONALE: This mandate requires the county treasurer to issue quadruplicate receipts upon receiving any amount due on a tax certificate. Comments from the committee suggested that there is no need for quadruplicate receipts, that three copies are generally sufficient. The Committee recommends that the language of this statute be modified to read: "the county treasurer shall issue an appropriate number of receipts, congruent with the standard operating procedures of the county, upon receipt of any amount due on a tax certificate."

M.S. 69.031, Subd. 5
Deposit of State Aid in
Excess of the Amount
Necessary to Meet
Employers Contribution

Allow use of excess when fund is fully funded.

RATIONALE: By means of extra employer contributions and payment of the state tax on automobile insurance premiums into the fund, the PERA Police and Fire Fund has been brought to a fully funded status. Most cities and all counties are mandated by M.S. 69.031(b) to pay over to PERA the amount of the 2% police aid which represents the required contributions together with any excess police aid. The committee recommends that the cities and counties not be required to contribute when the fund is fully funded so they may use the excess.

MANDATE (Statutory Titles)

RECOMMENDED ACTION

M.S. 353.27 Public Employees Retirement Fund Subd. 3a. Additional Employer Contribution	Review and modify, if necessary, the level of employer's additional contribution.
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RATIONALE: Currently, cities, counties, and towns are mandated to pay more than an amount sufficient to match the employee deductions for both the PERA coordinated fund and the PERA police and fire fund. The employer's additional contribution is 1½% for the coordinated plan, M.S. 353.27 and 4% for the police and fire fund, M.S. 353.65. The state is conducting a comprehensive analysis of the current and long-run financial status of pension funds and funding policies. As many local governments are being forced to cut services, it is unreasonable for the state to require the employer extra contribution if it is not needed.

M.S. 344.19 Viewers in Counties Not Organized Into Towns	Amend to allow county commissioners to delegate this authority and to set the compensation.
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RATIONALE: This mandate designates county commissioners as fence viewers in parts of counties not organized into towns. This mandate is deemed as outdated.

M.S. 385.38 Employees, Pay in Certain Counties; Fees	Eliminate.
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RATIONALE: This mandate requires the county auditor of counties having a population of more than 75,000, to file in his office, "on the first Monday of each month, a verified statement giving the name of every employee in his office, the general nature of the services rendered by him, and the amount paid therefore; also showing all business done in his office during the preceding month for which fees have been changed, the amount of fees received, and amount of such fees remaining unpaid."

It is recommended that this mandate be eliminated for two reasons. First, the Data Privacy Act provides public access to the information referred to in this statute making the requirement duplicative. Secondly, it is felt that county decisions concerning the generation of such reports are a better guide to their need rather than a blanket state mandate requiring them.

Laws 1982, Chapter 578 Sec. 11, M.S. 423A.10 Powers of City Officials Limited - Pay While on Relief Association Business	Amend to provide that cities are not required to pay cost of lost time in- curred by firefighters and police while on relief association business.
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MANDATE (Statutory Titles)

RECOMMENDED ACTION

RATIONALE: When a police or salaried fire relief association so authorizes, any member police officer or firefighter may undertake lobbying activities relating to benefits, without city approval but at city expense. Lobbying activities for benefits should be allowed by police and fire relief association members, but not at city expense. Further, relief association assigned business should not be allowed to disrupt regular duty assignments made by the employing unit.

Laws 1981, Chapter 346
Business Licenses or Permits;
Coverage Required

Eliminate. M.S. 176.182

RATIONALE: M.S. 176.182 (Laws 1981, Chapter 346) requires cities to enforce the state workers compensation insurance requirement for persons licensed by or contracting with a city. Because city licensing and contracting procedures vary widely, this statute only partially reaches problem businesses. In addition, the broader issue of whether this is an effective mechanism for enforcing workers compensation coverage is questionable.

Laws 1981, Chapter 346
176.221
Payment of Compensation
and Treatment Charges,
Commencement.
Subd. 1. Commencement
of Payment

Review fourteen (14) day period for M.S.
payment of workers compensation claims
after one year observation period.

RATIONALE: Under 1981 amendments to M.S. 221, employers and insurers must commence paying workers compensation claims within fourteen days. (The previous law allowed thirty days.) If after a one year observation period it is found that the fourteen day requirement does not allow adequate time for investigation and results in payments being made which are not justified, this time period should be lengthened.

M.S. 176.011, Subd. 15
Occupational Disease
Presumption for Police
and Fire Workers
Compensation

Eliminate or amend to remove the
presumption that heart attacks and
lung conditions for police and fire
personnel are work-related.

RATIONALE: The mandate creates a presumption that heart attacks and lung conditions for police and fire personnel are always work-related. Thus public employers must provide compensation for those conditions unless they can prove no work connection. Workers compensation coverage adequately protects these workers under its regular provisions, and these groups of workers should not be singled out for special treatment.

MANDATE (Statutory Titles)

RECOMMENDED ACTION

M.S. 270.07
Power to Abate

Modify language so that local governments need only to notify the Commissioner of Revenue of property tax and property tax penalty abatements. Upon receipt of this notification, the Commissioner of Revenue must notify the appropriate agencies.

RATIONALE: Currently, the Commissioner of Revenue must approve all property tax abatement except court ordered abatements, and shall approve abatements of property tax penalties. The Committee recommends the elimination of the sections in M.S. 270.07 that require Commissioner of Revenue approval of property tax abatement and property tax penalty abatement. The Commissioner of Revenue rarely disapproves either abatement; in practice, the Department of Revenue considers these abatements to be local issues, with local safeguards and controls. The review appears to be unnecessary, and for the abatement of property taxes, this review can add from four to six weeks of delay to the resolution of the abatement. Elimination of this mandate would reduce taxpayer complaints and accelerate cash flow to county and taxing districts. An alternative to total elimination which might ease the problem would require Commissioner of Revenue approval only on large abatements, or allowing counties to seek exemptions, from the Commissioner of Revenue, from state review if their abatement review process contains appropriate safeguards.

M.S. 291.20
Safety Deposit Companies
Not to Transfer Funds

Amend so that County Treasurer is not required to perform task.

RATIONALE: This mandate requires the county treasurer to examine and either authorize or defer, the release of securities, assets or funds on deposit in excess of \$1,000 belonging at the time of death, to a decedent or in joint tenancy. The county treasurer must also send a written report of the property examined in the decedent's safety deposit box to probate court and the Commissioner of Revenue.

The need for this mandate no longer appears to exist, and it is no longer necessary for the county treasurer to perform these functions. Recognizing that some counties may still want these duties performed by the county treasurer, the Committee recommends that the statute be amended so that the county treasurer may inventory safe deposit boxes and authorize the release of bank account funds. Probate courts have the necessary legal authority to oversee the release of or transfer of bank accounts, and the opening, inventory, and release of the contents of safe deposit boxes. The inventory of safe deposit boxes, prepared by persons authorized by the probate court, could be submitted to the Commissioner of Revenue and the probate court.

M.S. 6.48
Examination of Counties;
Cost, Fees - Cost of
Financial Examinations of
Counties by the State Auditor

Amend to allow counties to have their audits done by an approved public accountant or the State Auditor and subject to a bidding process. Standards for bids to be set by State Auditor.

MANDATE (Statutory Titles)

RECOMMENDED ACTION

RATIONALE: The state auditor has the authority to make a thorough examination of all accounts and records relating to the receipt and disbursement of public funds. The auditing requirement and cost assessment for county government should be examined and modified. The appropriate timing and performance of the audit should be established by the county and its auditor. Counties should be allowed to have their audit done by an approved public accountant or the state auditor, subject to a bidding process. If the county is limited to the services of the state auditor, the county should not be required to pay for the service.

EDUCATION COMMITTEE
RECOMMENDATIONS

STATE BOARD RULES
AND STATUTORY TITLE

RECOMMENDED ACTION

EDU 161 Elementary Physical Education Minimum Standards	Eliminate.
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RATIONALE: This rule establishes highly prescriptive time requirements for physical education in elementary schools; i.e. one ten minute period and one twenty-five minute period daily for grades one and two and one thirty minute period daily for grades three through eight. The committee feels this requirement is considerably more prescriptive than those for other required courses, and it inhibits local staffing flexibility.

EDU 6-C Library Location	Eliminate provision requiring central location of library.
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RATIONALE: Schools are now required to provide a central location for their library. The committee feels the actual location of a room used as the school library can best be determined by local school officials, who are in the position to know local needs.

M.S. 125.12 Employment; Contracts Termination Subd. 3 Probationary Period	Change probationary period to three years.
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RATIONALE: School district employees now serve variable probationary periods. The recommended change will provide consistency by granting school districts the same employee probationary provisions as cities of the first class under M.S. 125.17, which establishes a probationary period of three years. A three year period would allow more adequate time for evaluation of a teacher prior to the granting of tenure and seniority rights.

STATE BOARD RULES
AND STATUTORY TITLE

RECOMMENDED ACTION

M.S. 125.12, Subd. 4 Termination of Contract After Probationary Period	Permit school districts to place licensed staff on unrequested leave of absence subject to thirty days notice if they experience mandated reductions in state revenues.
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RATIONALE: School district budgets and staffing assignments are authorized many months ahead of the final legislative decisions on school funding. District employees are provided with a contract that requires notice of unrequested leave by April 1 for the following school year. Since about eighty percent of school district expenditures are used for staff, local officials do not currently have the flexibility to reorganize programs and reduce staff in a timely manner. The recommendation would apply only if there are mandated reductions in state revenues imposed after the Legislature has established the funding level.

M.S. 192.26, Subd. 1 State and Municipal Officers and Employees Not to Lose Pay While on Military Duty	Change provision to require that state and municipal officers and employees receive only the additional sum to the military pay necessary to equal the public employee's regular salary.
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RATIONALE: The law should be changed so that they would not be penalized while performing military duties, but they would no longer receive pay for two jobs as is currently the case. This change was also recommended by the General Government Committee.

M.S. 275.125, Subd. 2a(4) Tax Levy, School Districts	Remove limitation on the number of levy referendums a school district may place on the ballot during any year.
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RATIONALE: School districts are allowed to request a citizen voted tax referendum to increase spending if revenues are not sufficient. Current law allows for only one attempted referendum per year, however, to soften the impact of legislatively imposed reductions in revenue, the 1982 Legislature allowed a one-year relaxing of the one per year limit. A permanent change in the referendum law will allow more local flexibility and allow local school boards to determine the need for citizen voted tax referendums.

PHYSICAL DEVELOPMENT COMMITTEE
RECOMMENDATIONS

MANDATE (Statutory Title)

RECOMMENDED ACTION

1980 M.S. 471.464

No changes.

Ramps required at
Crosswalks

RATIONALE: The Committee recommends no change in this mandate since the law states that the handicapped ramps need not be installed until such time as the existing curb, gutter, and sidewalk are replaced. In view of this language, it is felt there were no unreasonable burdens being placed on communities in this state.

1980 M.S. 16.85

No changes.

State Building Code
Handicapped Access to
Public Buildings

RATIONALE: It was recognized that many of the older public buildings in Minnesota would require large expenditures of tax dollars to be made physically accessible. A common sense approach to accessibility would be to build, lease, or purchase a room or office in close proximity to the public building that is accessible to the elderly or handicapped. This room or office should be furnished with a desk, telephone and simple directory of telephone numbers of all services offered in the public building. A telephone call could then be placed to the appropriate office, whereupon an employee would bring the necessary material to serve the individual.

1980 M.S. 16.866

Change so that all municipalities submit
surcharge and reports on a quarterly basis.

Surcharge on Building
Permits Issued by Cities.
Subd. 2. Collection and
Reports

RATIONALE: When the surcharge originally went into effect, an advisory service was set up by the state with funds to aid local units of government in the administration of the building codes and issuance of building permits. The level of this service is now minimal. If the surcharge is continued, the Committee feels the statutes should be changed that mandate monthly reports and submission of the surcharge from cities over 20,000 population. Cities under 20,000 population report to the state quarterly. It is strongly felt that all cities be allowed to submit their surcharge and reports on a quarterly basis.

1980 M.S. 16.851

No changes.

State Building Code;
Application

RATIONALE: The problems caused by the above referenced mandate have been eased greatly by the passage of M.S. 16.868, which allows non-metropolitan

MANDATE (Statutory Title)

RECOMMENDED ACTION

counties to hold a referendum to decide if they want to adopt the state building code.

1980 M.S. 204A.09 No changes.
Designated Polling Places

1980 M.S. 204A.34 No changes.
Assistance to Voters

RATIONALE: No undue burdens are placed on local governments by these statutes requiring accessible polling places.

1980 M.S. 116D.04 No changes.
Environmental Impact
Statements

RATIONALE: This statute requires cities to prepare environmental impact statements and environmental assessment worksheets. Following the legislative changes in 1980, new rules and regulations have been promulgated and went into effect September 25, 1982. No changes are appropriate until one to two years of exposure under the new rules has been experienced.

1980 M.S. 116D.045 Amend to require a minimum charge be paid
Subd. 5 by the party proposing an action that re-
Environmental Impact quires an environmental impact statement.
Statements; Costs The charge should be not less than \$500.00,
 but not more than .3% of the total value
 below one million dollars.

RATIONALE: The party proposing the Environmental Impact Statement should not be freed of preparation costs totally. This places a heavy burden on local governments, particularly small entities. Therefore, requiring some preparation costs would give more credence to actions proposed.

1980 M.S. 104.01 - 104.07 1. Establish the right to raise mill rate.
Flood Plain Management 2. Establish deadline for compliance to
 flood plain and shoreline regulations.
 3. Option of adopting floodproofing regulations
 without embracing the entire State Building Code.

RATIONALE: This is an area where many problems exist. Discussions centered on three areas where changes would help the administration of these programs or mandates and reach the goals intended by the statutes.

1. The local units of government feel the administrative costs are quite burdensome and the right to raise the mill rate over and above the levy limitation to cover these costs would help these programs considerably.
2. At the present time 350 communities must adopt shoreline development plans. Only fifty-five have done so to date, whereas counties in general

MANDATE (Statutory Title)

RECOMMENDED ACTION

have accomplished more in this area. Problems then arise when counties with plans are involved with a development in conjunction with local communities that have no plan. It is felt a law requiring a deadline to comply with flood plain and shoreline regulations would speed completion of this task by local units of governments, thereby resolving much of this problem.

3. Many local units of government would like to adopt floodproofing into their building codes without embracing the entire state building code. At the present time, it is all or nothing.

1980 M.S. 105.485

Regulation of Shoreland
Development

Review current laws and combine all ordinances on shoreline, flood plain, scenic rivers, etc., and also to combine public hearings by state agencies.

RATIONALE: During the development phase of the Prairie Island Power Plant, twenty-three governmental agencies had an interest and required public hearings. These were done on an individual basis involving a tremendous combined cost. Combining ordinances, such as the Department of Natural Resources is now encouraging on shoreline, flood plain, scenic rivers, etc., and combining public hearings by state agencies would lower costs considerable.

1980 M.S. 473.851

Metropolitan Land Use
Planning Legislative
Findings and Purpose

No changes.

1980 M.S. 473.06

Metro Council Land
Planning - Local
Government Cooperation

No changes.

RATIONALE: Most of these plans have now been completed with only a few isolated suburban areas remaining. Therefore, no burdens of any magnitude remain at this time and the mandates should remain unchanged.

1980 M.S. 162.04

Payment Procedures for
County State Aid for
Highways

No changes.

RATIONALE: The current law provides for a local unit of government to withhold five percent of the contract price until up to ninety days after completion of the contract, or longer if the project is unacceptable. The ninety-five percent portion must be paid to the contractor within thirty days of the date the monthly estimates are received with the final payment in total within ninety days. If payments to the contractor exceed these timeframes, simple

MANDATE (Statutory Title)

RECOMMENDED ACTION

interest must be paid by the local government. The contractors would like to see the five percent withholding reduced while local governments in many cases feel that ten percent is a more desirable performance bond. The committee recommends no change in the current mandate.

1980 M.S. 116H.121 No changes.
Energy Conservation
Standards in Certain
Public Buildings

1980 M.S. 116H.124 No changes.
Local Government Surveys
and Fuel Cost Estimates

RATIONALE: These statutes require energy surveys and corrective action. The surveys and subsequent corrective actions are very cost effective although a question was raised about the possibility of a mill rate increase by local governments above the levy limitation to cover the costs of these surveys. Regardless, the committee recommends no change.

1980 M.S. 117.232 No change.
Owner Reimbursement
for Appraisal Fee in
Eminent Domain

RATIONALE: The \$300.00 appraisal fee that local governments and state agencies must pay upon request in Eminent Domain proceedings is not a reimbursable item by federal funds. The Committee initially felt if anyone wishes to challenge the fee appraiser's figures, they should do so at their own expense. However, the Director of the Office of Right of Way for MN/DOT and the Assistant Attorney General in charge of the legal matters of MN/DOT acquisitions, both felt this language should remain in the statutes with the rationale that if removed, attorneys for landowners would push for this item to be a part of the settlements, in which case a majority of the appraisals would substantially exceed the \$300.00 now permitted by law. Therefore, no change is recommended.

1980 M.S. 18.023 No changes.
Shade Tree Disease
Control

RATIONALE: Funding is no longer available for this program and it is no longer mandated but the statute should be retained in the event of future funding. If local governments desire to continue this program on their own, they are free to do so.

HUMAN SERVICES COMMITTEE
RECOMMENDATIONS

MANDATE (Statutory Title)

RECOMMENDED ACTION

Chapter 423, Section 10
DWI/Detox Center

Modify statute to allow officials to provide the most appropriate treatment. If that treatment is not provided at a detox center, written document must be developed which indicates the treatment selected and rationale for selection.

RATIONALE: Beginning July 1, 1983, local officials apprehending intoxicated individuals must take them to a detoxification center. The committee feels that local officials need to be given discretion so that appropriate actions are undertaken for each individual and so that judicious use may be made of costly community resources.

M.S. 626.84 - 626.861
Peace Officer Training

No change

RATIONALE: Since 1977 this legislation, which was implemented by the Peace Officer Standards and Training Board, has been amended several times to lift the financial burden of hiring requirements from local units of government. Important elements of the law include the following.

-- No longer is the local unit required to pay for the initial training of their peace officers. Under the current law, candidates receive their own education at their own expense prior to hire. This change took effect in 1979 and relieves local governments of all basic training expenses. Local units now have the ability to hire fully trained and fully licensed officers. Nothing in the law or the rules of the POST Board prohibits local units from imposing their own, more stringent recruitment criteria, which would be at their expense.

-- Under legislation passed in 1981 the POST Board, beginning in fiscal year 1983, will be reimbursing local units of government for the continuing education of their officers. It is estimated that each local unit will receive between \$125 and \$150 each year per full-time officer to cover expenses of keeping their officers currently trained.

M.S. 403.01
911 Emergency Telephone
System

No change

RATIONALE: Costs for telephone company central office switching equipment modifications, and annual recurring costs incurred in the maintenance of trunking and central office outswitching equipment, will be paid from the state's general fund. Equipment costs to local governments in the metropolitan

RECOMMENDED ACTION

MANDATE (Statutory Title)

RECOMMENDED ACTION

1980 M.S. 145.30

Superintendent of Hospitals
to Transfer Records

Revise to clarify that health promotion
visit records are not included as health
records.

RATIONALE: The current mandate requires indefinite retention of hospital records or copies of the records. The committee recommends that health promotion visit records should not be considered hospital records to be maintained.

II. FISCAL NOTE PROCESS

The Governor's Task Force recommends the establishment of a fiscal note process for any statute or regulation that will require an expenditure of public funds by a local government. An existing executive procedure requires implementing agencies to estimate the local costs associated with their programs, however, not all mandates are covered by these provisions. The current fiscal note process (M.S. 3.98) should be amended to encompass all legislation and all new agency rules. It is recommended that proposed changes be further studied by all affected before specific procedures be developed.

III. ON-GOING REVIEW PROCESS

The Governor's Task Force recommends the establishment of an on-going formalized process to review all future state initiated mandates and continue review of existing mandates. Specifically, it is felt that an appropriate state agency should coordinate a review of mandates at least every odd-numbered year. This review process should include the following steps:

1. Agencies will prepare a report which identifies all statutes and rules containing mandates to local units of government.
2. Working Committees would review the lists of mandates identified by agencies.
3. Reports and recommendations made by the Working Committees would be submitted to a Steering Committee for final review. A report would be developed and submitted to the appropriate legislative committee. If the mandate in question was included in an agency rule, it would be referred to the appropriate agency for rule revision or elimination.

IV. MODIFICATIONS TO CURRENT RULEMAKING PROCEDURES

The Task Force recommends that the current rulemaking procedure be changed. The change is recommended with the understanding that currently, any proposed minor, technical and non-controversial change which may include mandates has proven to be overly expensive and time consuming. It is recommended that in addition to the two existing categories of rulemaking, Controversial and

Non-controversial, a third category Obsolete/Clerical and process be developed for revisions. The Obsolete/Clerical rule revision procedures would include:

1. The agency, cabinet, state board, etc., develop the proposed rule changes.
2. Submit proposed rule to the Attorney General for review.
3. Submit proposed rule to Revisor of Statutes.
4. Submit proposed rule to State Attorney General.
5. Publish "notice of adoption" in State Register.
6. Rule is effective five days after notice.

CONCLUSIONS

The effort to reduce state initiated mandates on local governments is not new. In fact, many of the mandates which were reviewed during this effort had been identified in past studies as being problematic. The Steering Committee does recognize their work as being the first step in an on-going process in which state and local governments work together to continue review of existing mandates and new mandates which emerge in legislation and departmental rules.

APPENDIX A

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