

1 Resolution of the Taxation and Budget Reform Commission
 2 A resolution proposing an amendment to Section 18 of
 3 Article VII of the State Constitution to provide a
 4 definition of an unfunded mandate, to provide a single
 5 subject requirement for unfunded mandate legislation, to
 6 require that unfunded mandate legislation be enacted only
 7 after a public hearing, to provide criteria for the public
 8 hearing notice, to provide for sunset of unfunded
 9 mandates, to require the creation of a council on
 10 intergovernmental relations to resolve disputes regarding
 11 unfunded mandates, to provide for council membership, and
 12 to provide appropriations for the council.

13
 14 Be It Resolved by the Taxation and Budget Reform Commission:

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 16 That the following amendment to Section 18 of Article VII
 17 of the State Constitution is agreed to and shall be submitted to
 18 the electors of this state for approval or rejection at the next
 19 general election or at an earlier special election specifically
 20 authorized by law for that purpose:

21 ARTICLE VII

22 FINANCE AND TAXATION

23 SECTION 18. Laws requiring counties or municipalities to
 24 spend funds or limiting their ability to raise revenue or
 25 receive state tax revenue.--

26 (a) No county or municipality shall be bound by any
 27 general law that is an unfunded mandate. An unfunded mandate,
 28 for purposes of this section, is any general law requiring such
 29 county or municipality to spend funds or to take an action
 30 requiring the expenditure of funds. The legislature may not

31 enact a law containing an unfunded mandate unless the
32 legislature has determined that such law fulfills an important
33 state interest and unless:

34 (1)..Funds have been appropriated that have been estimated
35 at the time of enactment to be sufficient to fund such
36 expenditure;

37 (2)..The legislature authorizes or has authorized a county
38 or municipality to enact a funding source not then available for
39 such county or municipality ~~on February 1, 1989,~~ that can be
40 used to generate the amount of funds estimated to be sufficient
41 to fund such expenditure by a simple majority vote of the
42 governing body of such county or municipality;

43 (3) The law contains only the subject matter described in
44 subsection (a) and is enacted only after a public hearing, held
45 after public notice provided 24 hours before the hearing that an
46 unfunded mandate will be considered for which a fiscal analysis
47 prepared by the legislature is available at the time of the
48 hearing, and in addition to complying with other requirements
49 for enactment of laws, is passed by three-fourths affirmative
50 vote ~~the law requiring such expenditure is approved by two-~~
51 ~~thirds~~ of the membership in each house of the legislature; or

52 (4) The law is either required to comply with a federal
53 requirement or required for eligibility for a federal
54 entitlement, which federal requirement specifically contemplates
55 actions by counties or municipalities for compliance.

56
57 The law enacting an unfunded mandate shall expire October 1 in
58 the eighth year after its enactment, unless reenacted by the
59 legislature.

60 (b)..~~Except upon approval of each house of the legislature~~

61 ~~by two thirds three fourths of the membership, the~~ The
62 legislature may not enact, amend, or repeal any general law if
63 the anticipated effect of doing so would be to reduce the
64 authority that municipalities or counties have to raise revenues
65 or that would reduce the percentage of a state tax shared with
66 counties and municipalities, in the aggregate; as such authority
67 exists on February 1, 1989 unless the law contains only the
68 subject matter described in this subsection, and is enacted only
69 after a public hearing, held after public notice provided 24
70 hours before the hearing that an unfunded mandate will be
71 considered for which a fiscal analysis prepared by the
72 legislature is available at the time of the hearing, and in
73 addition to complying with other requirements for enactment of
74 laws, is passed by three-fourths affirmative vote of the
75 membership in each house of the legislature;

76 (c)..As an alternative process to a judicial proceeding for
77 resolving disputes related to this section, the legislature
78 shall create by general law, enacted by December 31, 2010, a
79 council on intergovernmental relations. The council shall
80 resolve disputes regarding whether a provision of law or an
81 agency action implementing a law, alone or in conjunction with
82 another law, is an unfunded mandate. If the council determines
83 that such provision of law or agency action implementing a law
84 is an unfunded mandate, no county or municipality shall be bound
85 by it. Laws adopted in accordance with subsection (a) or (b), as
86 applicable, shall not be considered by the council. The council
87 shall consist of 15 members, each serving two year terms,
88 appointed as follows: four members appointed by the Speaker of
89 the House of Representatives, four members appointed by the
90 President of the Senate, and seven members appointed by the

91 Governor. The determinations of the council shall be final and
 92 not subject to judicial review. The legislature shall make
 93 annual state appropriations to ensure that the council has
 94 sufficient funds to fulfill its constitutional duty. ~~Except upon~~
 95 ~~approval of each house of the legislature by two-thirds of the~~
 96 ~~membership, the legislature may not enact, amend, or repeal any~~
 97 ~~general law if the anticipated effect of doing so would be to~~
 98 ~~reduce the percentage of a state tax shared with counties and~~
 99 ~~municipalities as an aggregate on February 1, 1989. The~~
 100 ~~provisions of this subsection shall not apply to enhancements~~
 101 ~~enacted after February 1, 1989, to state tax sources, or during~~
 102 ~~a fiscal emergency declared in a written joint proclamation~~
 103 ~~issued by the president of the senate and the speaker of the~~
 104 ~~house of representatives, or where the legislature provides~~
 105 ~~additional state-shared revenues which are anticipated to be~~
 106 ~~sufficient to replace the anticipated aggregate loss of state-~~
 107 ~~shared revenues resulting from the reduction of the percentage~~
 108 ~~of the state tax shared with counties and municipalities, which~~
 109 ~~source of replacement revenues shall be subject to the same~~
 110 ~~requirements for repeal or modification as provided herein for a~~
 111 ~~state-shared tax source existing on February 1, 1989.~~
 112 ~~—(d) Laws adopted to require funding of pension benefits~~
 113 ~~existing on the effective date of this section, criminal laws,~~
 114 ~~election laws, the general appropriations act, special~~
 115 ~~appropriations acts, laws reauthorizing but not expanding then-~~
 116 ~~existing statutory authority, laws having insignificant fiscal~~
 117 ~~impact, and laws creating, modifying, or repealing noncriminal~~
 118 ~~infractions, are exempt from the requirements of this section.~~
 119 ~~(e) The legislature may enact general laws to assist in the~~
 120 ~~implementation and enforcement of this section.~~

121 BE IT FURTHER RESOLVED that the following statement be
122 placed on the ballot:

123 CONSTITUTIONAL AMENDMENT

124 ARTICLE VII, SECTION 18

125 UNFUNDED MANDATES.--Proposing an amendment to the State
126 Constitution to define an unfunded mandate, create a single
127 subject requirement for unfunded mandate legislation, require
128 that unfunded mandate legislation be enacted only after a public
129 hearing and three-fourths affirmative vote of the legislature,
130 provide criteria for public hearing notice, provide sunset of
131 unfunded mandate laws after eight years, establish an
132 intergovernmental relations council to resolve unfunded mandate
133 disputes, provide for council membership, and provide
134 appropriations.