HOUSE CS FOR SENATE BILL NO. 1(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/2/95
Referred: Rules

Sponsor(s): SENATORS TAYLOR, Kelly, Halford, Sharp

REPRESENTATIVES Kohring, Rokeberg, James

A BILL

FOR AN ACT ENTITLED

"An Act relating to state implementation of federal statutes."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. FINDINGS AND INTENT. (a) The legislature finds that

1. the people of the state, acting through their elected state officers, retain the
2. authority to establish state policy regarding the implementation of many federal statutes;
3. (2) implementation of federal policies in the state by federal agencies in ways
contrary to fundamental notions of federalism and self-determination on the state level must
be identified and countered;
4. (3) there is an urgent need to modify certain mandates imposed on the state
by the federal government because the implementation of those mandates wastes the financial
resources of the state, municipalities, and state residents and may undermine policies set by
the state;
5. (4) federal regulators frequently do not understand the needs and priorities of
this state;
6. (5) the tenth amendment to the United States Constitution directs that powers
not delegated to the United States are reserved to the states or to the people, yet the federal
government has intruded more and more into areas that must be left to the states;

(6) state government has a responsibility to monitor federal mandates to ensure
that they do not unduly conflict with state policy or go beyond the bounds imposed by the
tenth amendment to the United States Constitution.

(b) It is the intent of the legislature to assure that state government scrutinizes the
extent and scope of authority asserted by the federal government in imposing mandated
programs on the state to determine whether these mandates are inconsistent with state policy
or exceed the lawful authority of the federal government.

* Sec. 2. AS 37 is amended by adding a new chapter to read:

CHAPTER 40. IMPLEMENTATION OF FEDERAL MANDATES.

Sec. 37.40.010. STATE PROGRAMS IMPLEMENTING FEDERAL
MANDATES. (a) The commissioner of each department or head of another agency
in the executive branch shall, every four years, review each program administered by
that department or agency that implements federal statutes that impose mandated duties
on the state. The commissioner or agency head shall also review federal statutes,
regulations, guidelines, and policies that pertain to the program and identify those
provisions that are inconsistent with state policy or are not cost-effective. The
commissioner or agency head shall prepare a report describing the materials reviewed,
setting out conclusions, and making recommendations for changes in federal law to
make the program consistent with state policy or more cost-effective. A copy of the
review prepared under this subsection shall be delivered to the governor and the
Legislative Budget and Audit Committee by February 1.

(b) The commissioner of a department or head of another agency of the
executive branch authorized to develop a state program to respond to mandates
contained in federal statute shall, with the assistance of the Department of Law, review
the applicable federal statutes, regulations, guidelines, and policies to determine
whether the federal government has exceeded its authority to impose mandates on the
state. If it is determined that the federal government may have exceeded its authority,
the commissioner or agency head shall submit a written report to the governor and the
Legislative Budget and Audit Committee setting out the basis for this determination.
(c) A department or other agency of the executive branch authorized to
develop a state program to respond to mandates contained in federal statute shall

(1) give due consideration to the financial restraints of the state and
municipalities in the development of the program; and

(2) devise a program that is as efficient as possible in terms of long-
range public benefit and cost.

Sec. 37.40.020. LEGISLATIVE REVIEW OF FEDERAL MANDATES. (a)
Upon receipt of a report under AS 37.40.010(a) or (b), the Legislative Budget and
Audit Committee shall review the report and may seek additional information
regarding the federal mandate involved. The Legislative Budget and Audit Committee
may enter into contracts for research into legal theories that may support the right of
the state to oppose the federal mandate or research into more cost-effective methods
of implementing the mandate.

(b) Based upon its review under (a) of this section, the Legislative Budget and
Audit Committee may submit a report of its recommendations to the governor and the
legislature regarding

(1) the need to seek a change in federal statute, regulation, or policy
to ensure that the federal mandate is consistent with state policy and suited to the
needs of the state;

(2) ways in which the state program might be altered to more
efficiently implement the federal mandate;

(3) the possibility of pursuing a legal challenge to the validity of the
mandate.

* Sec. 3. APPLICATION. The first report prepared under AS 37.40.010(a) is due for
delivery to the governor and the Legislative Budget and Audit Committee by February 1,
1996.