

HOUSE BILL NO. 83

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES OGAN, Porter, Kohring, Toohey, James, Kelly

Introduced: 1/16/95

Referred: House Special Committee on World Trade and State/Federal Relations, State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

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

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

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

4 (1) the people of the state, acting through their elected state officers, retain the
5 authority to establish state policy regarding the implementation of many federal statutes;

6 (2) implementation of federal policies in the state by federal agencies in ways
7 contrary to fundamental notions of federalism and self-determination on the state level must
8 be identified and countered;

9 (3) there is an urgent need to modify certain mandates imposed on the state
10 by the federal government because the implementation of those mandates wastes the financial
11 resources of the state, municipalities, and state residents and may undermine policies set by
12 the state;

13 (4) federal regulators frequently do not understand the needs and priorities of
14 this state;

15 (5) the tenth amendment to the United States Constitution directs that powers

1 not delegated to the United States are reserved to the states or to the people, yet the federal
2 government has intruded more and more into areas that must be left to the states;

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

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

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

11 CHAPTER 40. IMPLEMENTATION OF FEDERAL MANDATES.

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

25 (b) The commissioner of a department or head of another agency of the
26 executive branch authorized to develop a state program to respond to mandates
27 contained in federal statute shall, with the assistance of the Department of Law, review
28 the applicable federal statutes, regulations, guidelines, and policies to determine
29 whether the federal government has exceeded its constitutional authority to impose
30 mandates on the state. If it is determined that the federal government may have
31 exceeded its authority, the commissioner or agency head shall submit a written report

1 to the governor and the house and senate judiciary committees setting out the basis for
2 this determination.

3 (c) A department or other agency of the executive branch authorized to
4 develop a state program to respond to mandates contained in federal statute shall

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

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

9 Sec. 37.40.020. LEGISLATIVE REVIEW OF FEDERAL MANDATES. (a)
10 Upon receipt of a report under AS 37.40.010(a) or (b), each committee shall review
11 the report and may seek additional information regarding the federal mandate involved.
12 The committee shall inquire further into the legality of the federal mandate, and may
13 enter into contracts for legal research on this issue. The committee may also enter into
14 contracts for research into legal theories that may support the right of the state to
15 oppose the federal mandate and may conduct or contract for research into more cost-
16 effective methods of implementing the mandate.

17 (b) Based upon its review under (a) of this section, the committee shall submit
18 a report of its recommendations to the governor regarding

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

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

24 (3) the advisability of pursuing a legal challenge to the validity of the
25 mandate.