

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1443

H.P. 1028

House of Representatives, April 27, 1995

**An Act to Dismiss Certain Federal Mandates.**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink, reading "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GERRY of Auburn.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 5 MRSA c. 20 is enacted to read:

6 CHAPTER 20

8 FEDERAL MANDATES ACT

10 §481. Short title

12 This chapter is known and may be cited as the "Federal Mandates Act."

14 §482. Legislative declaration

16 The 10th amendment to the United States Constitution directs  
18 that powers that are not delegated to the United States are  
20 reserved to the states or to the people. Maine, as one of the  
22 sovereign states within the Union, has constitutional authority  
24 to enact laws protecting the environment of the State and  
26 safeguarding the public health, safety and welfare of the  
28 citizens of the State. However, this authority has too often  
30 been ignored by the Federal Government, as the Federal Government  
32 has intruded more and more into areas that must be left to the  
34 states. It is essential that the dilution of the authority of  
36 state and local governments be halted and that the provisions of  
38 the 10th amendment be accorded proper respect.

40 This chapter will better balance the exercise of the powers  
42 of the Federal Government and the powers reserved to the states.  
44 In addition, the application of this chapter ultimately will  
46 bring about greater protection for the State and the Nation,  
48 because it will direct the State to implement federal statutes at  
the least possible cost, thereby freeing more money for other  
needs.

36 §483. Definitions

38 As used in this chapter, unless the context otherwise  
40 indicates, the following terms have the following meanings.

42 1. Federal statute. "Federal statute" means a federal  
44 statute in accord with the United States Constitution that  
46 imposes mandates on state or local governments and includes, but  
48 is not limited to, the following:

A. The federal Safe Drinking Water Act, 42 United States  
Code, Section 300f, et seq., as amended;

2        B. The federal Clean Air Act, 42 United States Code,  
3        Section 7401, et seq., as amended;

4        C. The Federal Water Pollution Control Act, 33 United  
5        States Code, Section 1251, et seq., as amended;

6        D. The federal Resource Conservation and Recovery Act of  
7        1976, 42 United States Code, Section 6901, et seq., as  
8        amended;

9        E. The federal Comprehensive Environmental Response,  
10       Compensation, and Liability Act of 1980, 42 United States  
11       Code, Section 9601, et seq., as amended;

12       F. The federal Superfund Amendments and Reauthorization Act  
13       of 1986, Public Law 99-499, as amended;

14       G. The federal Endangered Species Act of 1973, 16 United  
15       States Code, Section 1531, et seq., as amended;

16       H. The federal asbestos school hazard abatement statute, 20  
17       United States Code, Section 4011, et seq., as amended;

18       I. The federal Brady Handgun Violence Prevention Act of  
19       1993, Public Law 103-159, as amended;

20       J. The federal Commercial Motor Vehicle Safety Act of 1986,  
21       49 United States Code, Section 2701, as amended;

22       K. The federal Family and Medical Leave Act of 1993, Public  
23       Law 103-3, as amended;

24       L. The federal Emergency Planning and Community  
25       Right-to-Know Act, Public Law 99-145 and 99-499, as amended;

26       M. The federal National Voter Registration Act of 1993,  
27       Public Law 103-31, as amended;

28       N. The federal school lunch program and school breakfast  
29       program, 42 United States Code, Sections 1751 and 1773, as  
30       amended;

31       O. The federal social services and Medicaid requirements,  
32       42 United States Code, Section 1396, as amended;

33       P. Federal highway safety programs; and

34       Q. The federal Intermodal Surface Transportation Efficiency  
35       Act of 1991, Public Law 102-240, as amended.

2           **§484. State programs to implement federal statutes**

4           **1. Identify federal laws inconsistent with state policies.**

6           Any state officer, official, or employee charged with the duty of  
8           implementing any federal statute shall implement the law as  
10          required by the federal statute in good faith and exercising a  
12          critical view toward the provisions of any federal regulation,  
14          guideline or policy in order to identify those provisions of any  
16          federal regulation, guideline or policy that are inconsistent  
18          with state policy or do not advance state policy in a  
20          cost-effective manner.

22          **2. Development of state program; criteria.** Any agency of  
24          the Executive Department that is authorized to develop a state  
26          program to respond to any mandates contained in a federal statute  
28          shall develop the state program and promulgate any necessary  
30          regulations using the following criteria:

32          **A. State programs should be developed by the state agency**  
34          **to meet the requirements of federal statutes in good faith**  
36          **with a critical view toward any federal regulations,**  
38          **guidelines or policies;**

40          **B. State programs should be developed with due**  
42          **consideration of the financial restraints of local**  
44          **governments, the citizens of the State and the State; and**

46          **C. Any state program that implements the goals of the**  
48          **federal statute should use the most efficient method**  
50          **possible, with careful consideration given to cost of the**  
52          **program and the impact of the program on the State's**  
54          **citizens and local governments and the long-range public**  
56          **health, safety and welfare of citizens of the State.**

58          **3. Program authorization; specifications.** If any state  
60          program is authorized or mandated by a federal statute, a state  
62          appropriation for the program may not be enacted unless:

64          **A. The state program is necessary to protect the public**  
66          **health, safety and welfare;**

68          **B. The state program is necessary to implement the federal**  
70          **statute;**

72          **C. The operation of the state program benefits the State by**  
74          **providing a cost-effective implementation of the federal**  
76          **statute by the State Government, by local government and by**  
78          **business; or**

2       D. The state program benefits the State, local government  
4       and business by providing a cost-effective means to meet a  
      higher public health, safety and welfare standard  
      established under state law.

6       **§485. State agency budget requests**

8       Each state agency making a budget request for state  
10      appropriations for a state program authorized or mandated by  
12      federal statute shall include in its budget request citations to  
14      the federal constitutional or statutory provisions and the state  
      constitutional or statutory provisions that authorize the state  
      program.

16      1. Committee to review and recommend. The joint standing  
18      committee of the Legislature having jurisdiction over  
20      appropriations and financial affairs shall review the budget  
      request and determine whether additional state statutory  
      authority is required in order to implement the state program and  
      shall make recommendations to the Legislature.

22      2. Legislature to determine program necessity. The  
24      Legislature, after receiving a recommendation from the joint  
26      standing committee of the Legislature having jurisdiction over  
28      appropriations and financial affairs shall determine whether a  
30      state program is necessary and whether federal constitutional or  
32      statutory authority and state constitutional or statutory  
34      authority exist. The Legislature shall exercise a critical view  
36      toward the interpretation of the federal statute found in federal  
      regulations, guidelines or policies. Enactment of state  
      appropriations for a state program constitutes the Legislature's  
      determination that the state program is necessary and that  
      federal constitutional authority and state constitutional or  
      statutory authority exist. State appropriations may not be based  
      solely on requirements found in regulations, guidelines or  
      policies of a federal agency.

38      3. Savings identified. Prior to recommending to the  
40      Legislature any budget for a state agency that is charged with  
42      implementing federal mandates, the State Budget Office and the  
44      joint standing committee of the Legislature having jurisdiction  
      over appropriations and financial affairs shall require that the  
      state agency provide the following:

46      A. Information regarding any monetary savings for the State;

48      B. A description of any reduction in regulatory burdens on  
50      the public and on local governments that could be or have  
      been achieved through the development of state policies that  
      meet the intent of the federal statute but do not

necessarily follow all applicable federal regulations,  
guidelines or policies; and

C. Advice to the State Budget Office and the joint standing  
committee of the Legislature having jurisdiction over  
appropriations and financial affairs regarding any changes  
in state statutes that are necessary to provide the state  
agency the authority to implement state policies in such a  
way as to create additional savings or greater reductions in  
regulatory burdens.

The State Budget Office shall review and compile the information  
received from the state agencies pursuant to this subsection and  
shall include recommendations in its annual budget request to the  
joint standing committee of the Legislature having jurisdiction  
over appropriations and financial affairs based upon such  
information.

**4. Exemptions.** For purposes of this section, "state  
program" does not include any portion of a program that is funded  
with nontax or nonfee revenues, or both, that state authorities  
are required to administer in a trusteeship or custodial capacity  
and that are not subject to appropriation by the Legislature.

## STATEMENT OF FACT

This bill provides a mechanism in which agencies in State  
Government would be required to identify and assess the impact of  
any federally mandated program and identify those provisions  
inconsistent with state laws. It also requires that a state  
agency consider the cost of the mandate as well as the impact on  
the State's citizens when developing policies in response to a  
federal mandate.