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Referred: State Affairs
and Judiciary

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STURGULEWSKI AND FAIKS

1 IN THE SENATE

2 SENATE JOINT RESOLUTION NO. 36 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 Relating to the proposal by Congress of
6 an amendment to the United States Con-
7 stitution to permit states to favor
8 certain residents of the states.

9 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 WHEREAS the Supreme Court of the United States has held that the State
11 of Alaska may not establish a program for the distribution of benefits to
12 residents of a state that is based on the length of residency within the
13 state; and

14 WHEREAS the Supreme Court of the United States has held that the State
15 of Alaska under prior legislation could not reward citizens of the State of
16 Alaska based on the past contributions of those residents to the quality of
17 life within the state; and

18 WHEREAS the Supreme Court of the United States has held that the State
19 of Alaska's interest in creating a financial incentive for residents of the
20 state to establish and maintain their residence in the state is restricted,
21 constitutionally; and

22 WHEREAS the law of the State of Alaska involved did not concern an
23 entitlement of citizens of the United States based on need or a state-
24 funded program dependent on the receipt by the state of federal funding;
25 and

26 WHEREAS a state trial court has held a similar state program that is
27 also not based on need or dependent on the receipt by the state of federal
28 funding is unconstitutional under Fourteenth Amendment concepts; and

29 WHEREAS it has always been understood that the states were to be

1 granted under the American federal system the discretion to experiment in
2 the development of the programs that concern only the inhabitants of a
3 state; and

4 WHEREAS a clarification of these issues arising under the United
5 States Constitution will diminish future uncertainty and promote the role
6 of the states as laboratories without diminishing significant rights
7 granted under the United States Constitution; and

8 WHEREAS recent decisions have deprived states of that option in a
9 large area of legislative concern; and

10 WHEREAS, under Article V of the Constitution of the United States,
11 amendments to the Constitution may be proposed by Congress or, on the
12 application of the legislatures of two-thirds of the states, Congress shall
13 call a constitutional convention for the purpose of proposing amendments;

14 BE IT RESOLVED by the Alaska State Legislature that the Congress of
15 the United States is requested to call a convention for the sole and exclu-
16 sive purpose of proposing and submitting to the states for their ratifica-
17 tion an amendment to the Constitution of the United States in essentially
18 the following form:

19 Article . No provision of the Fourteenth Article of Amendment
20 to the United States Constitution shall operate to deprive or
21 deny to any state the right to offer a program to residents of
22 the state based on length of residency within the state if the
23 program is offered without regard to the need, economic condi-
24 tion, or means of the program's recipients and if no federal
25 funding is used to support the program or the institutions where
26 the program is offered or provided; and be it

27 FURTHER RESOLVED that if Congress proposes such an amendment to
28 the Constitution this application shall no longer be of any force or
29 effect.

1 **COPIES** of this resolution shall be sent to the Secretary of the United
2 States Senate; the Clerk of the United States House of Representatives; and
3 the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators,
4 and the Honorable Don Young, U.S. Representative, members of the Alaska
5 delegation in Congress.