

FAHRENKAMP, STURGULEWSKI,  
ELIASON, HALFORD AND  
FISCHER

1 IN THE SENATE

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SENATE JOINT RESOLUTION NO. 43

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - FIRST SESSION

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Relating to implementation by the Con-

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gress of the Tenth Amendment to the

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Constitution of the United States.

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

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WHEREAS the Tenth Amendment of the United States Constitution, a part  
10 of the Bill of Rights, provides that "The powers not delegated to the  
11 United States by the Constitution, nor prohibited by it to the states, are  
12 reserved to the states respectively, or to the people."; and

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WHEREAS the limits under the Tenth Amendment on the authority of Con-  
14 gress to overrule the laws of the states have recently been reviewed by the  
15 United States Supreme Court in Garcia v. San Antonio Metropolitan Transit  
16 Authority, 469 U.S. 528 (1965) and South Carolina v. Baker, 485 U.S. \_\_\_\_\_,  
17 99 L.Ed.2d 592 (1988); and

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WHEREAS the opinions hold that the states must find protection from  
19 efforts by the Congress to overrule state legislation through the political  
20 process rather than from constitutionally defined protection in the Consti-  
21 tution itself; and

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WHEREAS the opinions offered no protection to state legislation and  
23 invite further preemption by the Congress of the authority of the states;  
24 and

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WHEREAS the Alaska State Legislature believes that the Tenth Amendment  
26 to the Constitution of the United States is and has been of operational  
27 force governing and balancing the respective powers of the United States  
28 and the states;

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BE IT RESOLVED that the Alaska State Legislature believes that the

1 Tenth Amendment is a substantive limit on the power of the Congress and  
2 should be applied by courts of the United States and of the several states  
3 as a substantive limit on national power in cases coming before them when a  
4 question of the authority of the states is raised; and be it

5       FURTHER RESOLVED that the President and the Congress are urged to  
6 carry out their constitutional responsibilities to protect and strengthen  
7 the position of the states in the federal union, to avoid intrusion upon  
8 the prerogatives of the states, and afford protection to the proper govern-  
9 ing authorities of the states.

10       COPIES of this resolution shall be sent to the Honorable George Bush,  
11 President of the United States; to the Honorable Dan Quayle, Vice-President  
12 of the United States and President of the U.S. Senate; the Honorable Jim  
13 Wright, Speaker of the U.S. House of Representatives; and to the Honorable  
14 Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the  
15 Honorable Don Young, U.S. Representative, members of the Alaska delegation  
16 in Congress.