

Amended: 5/7/89

6-1178E

Offered: 5/5/89

Referred: Rules

Original sponsors: Fahrenkamp, Sturgulewski,
Eliason, et al.

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR SENATE JOINT RESOLUTION NO. 43 (Judiciary) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Relating to implementation by the Con-
6 gress of the Tenth Amendment to the
7 Constitution of the United States.

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

9 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

13 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

18 WHEREAS the opinions hold that the states must use the political
19 process to find protection from efforts by the Congress to overrule state
20 legislation rather than invoking the protections in the Constitution
21 itself; and

22 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

25 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; and

29 WHEREAS the Alaska State Legislature believes that the Tenth Amendment

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

5 BE IT RESOLVED that the President and the Congress are urged to carry
6 out their constitutional responsibilities to protect and strengthen the
7 position of the states in the federal union, to avoid intrusion upon the
8 prerogatives of the states, and afford protection to the proper governing
9 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, the Honorable
15 Don Young, U.S. Representative, members of the Alaska delegation in Con-
16 gress, and to the Supreme Court of the United States.