

HJR

27

HOUSE COMMITTEE REPORT

(9)

Date Referred to Committee: March 19, 2009

FURTHER REFERRALS:

Date of Committee Action: 3/30/09

The RESOURCES Committee considered:

HOUSE JOINT RESOLUTION NO. 27

Relating to sovereign powers of the state.

HJR 27 STATE SOVEREIGNTY

Recommends it be replaced with HCS or CS for HJR 27 (RES)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

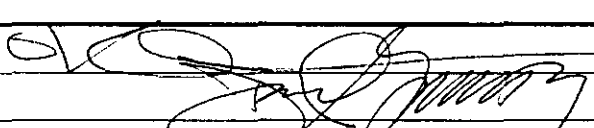
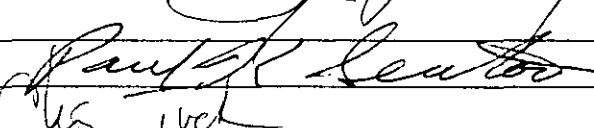
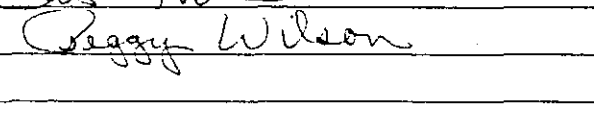
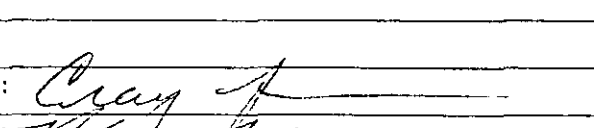
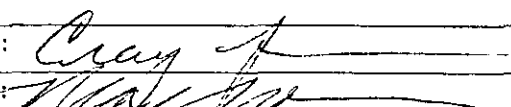
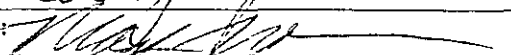
- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- DHS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
HRES				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	OLSON	✓			
	SEATON	X			
	IUCK				X
	WILSON	X			
Chair: 	Johnson	X			
Chair: 	NEUMANN	X			

ALASKA STATE LEGISLATURE

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House District 28

FAX

*Faxed @
5:52pm
on 3/30/09*

To: Legislative Legal Services

From: Debra Higgins

Fax: 465-2029

Phone: 465-3715

Date: 3/30/09

CC:

Re: CS for HJR 27(RES)

Pages with Cover: 1

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

•Comments:

HJR 27 (26-LS0760A) moved from House Resources Committee today with the following conceptual amendment.

On page 2, line 18: (two commas)
Insert "," after "penalties" and after "sanctions"

On page 2, line 25 (or wherever it fits in the last paragraph)

Delete "."

Insert "; and governors and legislative bodies of the other 49 states."

A final CS for HJR 27(RES) would be fine.

Thanks.

Debra

HJR 27

Lozano

pg 2, line 9

~~delete " or lose federal funding
we prohibited or repealed"~~

Wagner - Conceptual

~~Amendment #1~~

Tuck - Amendment to HJR 27

pg 2, line 18

insert ", " & " " "
after "penalties" after "sanctions"

adopted
3/30/09

Johnson -

Conceptual Amendment #2
HJR 27

pg 2,

Copies of this resolution sent to:

~~add~~ ~~Legislative bodies~~

~~add~~ ~~Governors of the other states.~~

add + legislative bodies

"Governors of the other 49 states"

adopted
3/30/09

2:48pm

1 the Ninth Amendment to the Constitution of the United States reads, "The enumeration in the
2 Constitution, of certain rights, shall not be construed to deny or disparage others retained by
3 the people"; and

4 **WHEREAS** the United States Supreme Court has ruled in *New York v. United States*,
5 112 S.Ct. 2408 (1992), that the United States Congress may not simply commandeer the
6 legislative and regulatory processes of the states; and

7 **WHEREAS** all states, including Alaska, find themselves regularly facing proposals
8 from the United States Congress that weaken states' rights protected by the Tenth
9 Amendment;

10 **BE IT RESOLVED** that the Alaska State Legislature hereby claims sovereignty for
11 the state under the Tenth Amendment to the Constitution of the United States over all powers
12 not otherwise enumerated and granted to the federal government by the Constitution of the
13 United States; and be it

14 **FURTHER RESOLVED** that this resolution serves as Notice and Demand to the
15 federal government, as our agent, to cease and desist, effective immediately, mandates that are
16 beyond the scope of these constitutionally delegated powers; and be it

17 **FURTHER RESOLVED** that all compulsory federal legislation that directs states to
18 comply under threat of civil or criminal penalties, or sanctions, or requires states to pass
19 legislation or lose federal funding be prohibited or repealed.

20 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
21 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and
22 President of the U.S. Senate; the Honorable Nancy Pelosi, Speaker of the U.S. House of
23 Representatives; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S.
24 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska
25 delegation in Congress; and all other members of the 111th United States Congress.

Alaska State Legislature

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Member

House Finance Committee

Representative Mike Kelly

House District 7

HJR 27 SPONSOR STATEMENT

HJR 27 re-asserts Alaska's rights as a sovereign. The resolution reminds the federal government that the 10th Amendment limits the scope of federal power to that specifically granted by the Constitution of the United States and no more. Each state possesses a vast array of rights that our Founders strove to make certain the federal government could not usurp, rights the federal government seems to increasingly have ignored or diminished.

This year several resolutions before the House refer to the abuse of federal powers and the consequences that abuse poses for Alaska including:

- HR 8 and SR 6 – Resolutions opposing the Transportation Security Administration's (TSA) proposal to require in-state general aviation to implement a Large Aircraft Security Plan, similar to that in effect for major Interstate and International airports and flights.
- HJR 17 – A Resolution opposing the "Blair Holt's Firearm Licensing and Record of Sale Act" which would violate Alaskans' 2nd Amendment right to keep and bear arms.
- SCR 3 – A Resolution Urging the Governor to take action against the US Department of the Interior for violating our right to manage our millions of acres of navigable waters and submerged lands.
- HB 186 – A bill exempting firearms manufactured and kept in Alaska from federal regulation.

The federal government's encroachment on state's rights doesn't stop there. According to the National Conference of State Legislatures, "the volume of federal legislation that preempts state authority has increased" and "pressure continues to mount for Congress and the White House to support federal usurpation of state authority in a variety of areas such as criminal law, tort reform, driver's license security and the environment."

Unfunded mandates in Medicare, Medicaid and Education spending, preemption of state absentee voting laws and product liability and consumer protection standards should be added to the list of over-reaching federal authority. As the 9th and 10th amendments to the United States Constitution anticipated, the states must forever retain the power and flexibility to craft innovative solutions to their own problems.

Often the broad manner in which laws are written in congress can most politely be described as overreaching and cavalier. One example that concerns Alaskans is a Congressional proposal that could turn into the confiscation of our firearms in violation of the 2nd Amendment. HJR 27 tells the feds to back off, that Alaska has the authority and right to determine how best to govern our state.

I would appreciate your support for this resolution.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 27
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: _____
 Title STATE SOVEREIGNTY RDU _____
 Component _____
 Sponsor REPRESENTATIVE KELLY, Keller Component Number _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Resources Committee Phone 465-3715
 Division _____ Date/Time _____
 Approved by: Representative Craig Johnson, Co-Chair Date 3/30/2009
House Resources Committee

NCSL NEWS

May 14, 2008

States Call on Congress to Stop Impeding State Authority

Regulatory Activism Undermines State-Federal Partnership

WASHINGTON – In testimony today before Congress, the National Conference of State Legislatures urged U.S. Representative Henry Waxman to move forward on legislation to protect states against federal pre-emption of their authority. State Representative David Clark, majority leader in the Utah House of Representatives and chairman of NCSL's Standing Committees, told members of the U.S. House Committee on Oversight and Government Reform that decisions of state legislatures should not be trumped by unelected federal bureaucrats.

Clark cited specific instances of pre-emption by the Food and Drug Administration as being especially troublesome. In several cases, federal agencies have developed regulations that have no basis in underlying federal law, he said.

"States have different ways of solving problems. The diversity found within our state laws helps refine our democratic system," Clark said in his testimony. "When those state policy decisions are overridden by Congress, the agencies or the Supreme Court, the results are significant to states."

The FDA, for example, appeared to have circumvented the legislative process to create product liability and consumer protection standards without input from state officials. Many states, including Utah, already have stringent product liability laws that meet specific needs.

In his testimony, Clark urged Waxman to create legislation creating a transparent and open regulatory process that

respects Congress and state and local governments. Committee members are reviewing draft legislation that supports state oversight of product safety regulation.

"The bill recognizes that some decisions, such as how to protect people from defective products, are best made by the state legislatures, not by the federal government," Clark said.

NCSL is the bipartisan organization that serves the legislators and staff of the states, commonwealths and territories. It provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues and is an effective and respected advocate for the interests of the states in the American federal system.

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POLITICS

"A SINGULAR CABAL OF SUPERIOR WRITERS"

Blogcritics is an online magazine, a community of writers and readers from around the globe.

Publisher: [Eric Olsen](#)

State Sovereignty Movement Quietly Growing

Written by [Dave Nalle](#)
Published February 05, 2009

You may not have heard much about it, but there's a quiet movement afoot to reassert state sovereignty in America and stop the uncontrolled expansion of federal government power. Almost half of the state legislatures are considering or have representatives preparing to introduce resolutions which reassert the principles of the 9th and 10th Amendments to the Constitution and the idea that federal power is strictly limited to specific areas detailed in the Constitution and that all other governmental authority rests with the states.

In the version of this bill being considered in Washington State, they appeal to the authority of James Madison in *The Federalist* who wrote:

"The powers delegated to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects, [such] as war, peace, negotiation, and foreign commerce. The powers reserved to the several states will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people."

The founding fathers believed in a balance between state and federal power. This state sovereignty movement clearly arises from the belief that the balance of power has tilted too far and for too long in the direction of the federal government and that it's time to restore that lost balance.

The emergence of this movement is a hopeful sign of the people asserting their rights and the rights of the states and finally crying "enough" to runaway government. With the threat of increasingly out of control federal spending, some of these sovereignty bills may stand a fair chance of passage in the coming year.

There's a lot of excitement about these bills, but there are also a lot of misconceptions, with people claiming that some states have already declared sovereignty and that the movement is much farther along than it really is. Contrary to popular rumor, none of the states has actually enacted a sovereignty law yet. Some have come close. Oklahoma's bill passed their lower house overwhelmingly but stalled in the Senate last fall and is being held over for consideration in the new year.

Contrary to the fantasies of some extremists, these sovereignty bills are not the first step towards secession or splitting up the union, nor are they an effort to block collection of the income tax, appealing though that might be. For the most part, they are not so much political statements of independence as they are expressions of fiscal authority directed specifically at the growing cost of unfunded mandates being placed upon the states by the federal government. Despite the movement picking up steam as he came to office, the target of these bills is not President Obama, but rather the Democrat-dominated Congress whose plans for massive bailouts and expanded social programs are likely to come at an enormous cost to the states.

It has become increasingly common for Congress to pass legislation which dictates policy to the states, but which comes without adequate federal funding and the expectation that the cost of these programs, which the states had no real say in approving, will come out of state budgets. This has been a long-term problem with Medicaid and Medicare, but the unfunded mandate which stirred up the most ire recently was the *No Child Left Behind* program. More concern has been raised with the recent reauthorization and expansion of the SCHIP program which has a history of requiring more expenditure than is provided for in the federal budget.

The text of the bill proposed in Arizona makes the clearest statement of the intent to block unfunded mandates:

"That this Resolution serves as notice and demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers."

and

"That all compulsory federal legislation that directs states to comply under threat of civil or criminal penalties or sanctions or requires states to pass legislation or lose federal funding be prohibited or repealed."

What this movement is most similar to is the Nullification Crisis of 1832, when the State of South Carolina asserted that it had the right to nullify the authority of federal laws within its borders. In this case the states are not asserting anything as broad as the Doctrine of Nullification, but are merely reasserting the limits which the 10th Amendment places on federal authority, specifically as it applies to spending, the idea being that they don't have to pay for federal mandates if their legislators choose not to.

Not all of the bills fall within these limitations. Missouri's bill actually goes somewhat further and does assert the right for the state to negate federal law, specifically in reference to the proposed federal Freedom of Choice Act, which some fear would bar states from passing laws regulating abortion. New Hampshire's bill actually goes so far as to lay out a very strongly worded variant of the Doctrine of Nullification, which specifies acts by the federal government (many of them currently being proposed in Congress) which would effectively negate the Constitution and the authority of the federal government within their state. Hawaii's proposed sovereignty bill comes very close to being an actual act of secession, based on native tribal rights.

As things stand right now it looks like Oklahoma, Washington, Hawaii, Missouri, Arizona, New Hampshire, Georgia, California, Michigan and Montana will all definitely consider sovereignty bills this year. They may be joined by Arkansas, Colorado, Idaho, Indiana, Alaska, Kansas, Alabama, Nevada, Maine and Pennsylvania where legislators have pledged to introduce similar bills. Twenty states standing up to the federal government and demanding a return to constitutional principles is a great start, but it remains to be seen whether legislatures and governors are brave enough or angry enough to follow through. As the Obama administration and the Democratic Congress push for more expansion of federal power and spending that may help provide the motivation needed for the sovereignty movement to take off.

JUNEAU EMPIRE.COM

We can break the chains of government control

Tuesday, March 17, 2009

By Kevin Reeves | **Round Two**

"Live Free or Die"

- New Hampshire motto

"Conviction is worthless unless it is translated into conduct."

- Thomas Carlyle

His name was Sean Flaherty, a diminutive, dark-headed Irishman's son, and I had the severe misfortune to be seated next to him in algebra class at the beginning of my freshman year. The math was bad enough - I never had a head for the stuff - but what made the class intolerable was Flaherty's mouth.

It was the dominant part of his personality, and he couldn't help livening up the room with colorful invective. Unfortunately, most of it was directed at me. Barbs about my acne, gangly appearance, etc. elicited laughter from my gangly, acne-faced classmates, who tittered like girls because the puberty hormones hadn't yet kicked in. I hated taking it on the chin that way, but I was scared to death of fighting. So to spare my miserable hide, I just laughed nervously along with the other 40 children in the room.

Then, one day, in the middle of a boring lecture on numbers, it happened. The under-the-breath jibes, the infuriating grin, the quiet, mocking laughter all coalesced to produce a real-time example of Newton's Third Law. In other words, I snapped. It was just a quiet, little pop, actually, which no one noticed but me. But suddenly, irreversibly, it was better to get bloodied than to just silently take the abuse. Flaherty had finally pushed all the right buttons in sequence. I'd had enough.

"Don't ever say that to me again."

Silence dropped like a guillotine blade. Mr. Tayzak's numbers-laden monologue froze midstream. Everyone, and I mean everyone, stared at us.

With a dismissive smirk Flaherty loudly replied, "Yeah? And what'll you do?"

I never blinked. "I'll bust your head."

The surprise on his face was priceless. A shadow of fear flitted across his eyes and he faked a puny laugh, looked away, and never bothered me again. Mr. Tayzak smiled faintly and continued his lecture. And I discovered that self-respect felt real good.

I learned a valuable lesson that day: If you let people stomp you, they will.

The issue of state sovereignty has cannon-balled in the past three weeks. It is long overdue. Some 20 states have either drafted resolutions against federal interference or are in the process of doing so. Thankfully, Alaska's own House Resolution 9 "serves as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers ..."

Since the passage of the fiat money bailout, which blithely promises Americans that our "representatives" can spend us out of debt, more and more states are experiencing the first sluggish awakenings from a federally-induced hypnotic trance. The sparkly medallion swung back and forth before drooping eyelids, of course, is the so-called "funding" that a state gets if it grovels enough before the federal hierarchy. Unfortunately for the Washington, D.C., conglomerate, with a deficit in the trillions, a probable depression looming, current taxation nearly astronomical, multiplied millions out of work and American freedoms melting like snowflakes under a desert sun, many average folks have drawn a line in the sand.

The New Hampshire resolution was killed in the state house, apparently by those who either cannot comprehend or view with utter contempt the state motto. Happily, those same who voted against it will be remembered as federal lackeys and now face a constituency who've had a gutful of being legislatively bullied.

Yet, this movement is merely so much rhetoric unless it is coupled with decisive action. If H.R. 9 means anything - and it certainly should, given our own proud motto - then the people of Alaska have declared that we are taking a stand, finally, and that threats and intimidation from our self-described betters in Washington won't work anymore.

Freedom has grave responsibilities. We're about to find out if we're worthy enough to carry them, or if we are to shoulder the accusation from another era, spoken to another complacent people: "Crouch down and lick the hand that feeds you; May your chains rest lightly upon you, and may posterity forget that ye were our countrymen."

Click here to return to story:

http://juneauempire.com/stories/031709/opi_410751487.shtml

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REPRESENTATIVE MIKE KELLY
HOUSE DISTRICT 7

Member
House Finance Committee
Legislative Budget & Audit

MEMORANDUM

To: Representative Craig Johnson Co-Chair – House Resources Committee
Representative Mark Neuman Co-Chair – House Resources Committee

From: Representative Mike Kelly

A handwritten signature in black ink, appearing to be "MK", enclosed in a circle.

Date: March 19, 2009

Re: Committee Hearing Request – HJR 27 “Relating to Sovereign Powers of the State.”

.....

I respectfully request that HJR 27, “Relating to Sovereign Powers of the State” be scheduled for a hearing. I have included a sponsor statement, the bill and other items of evidentiary support.

If you have any questions or comments, or require additional material please feel free to contact me at extension 4976 or my staff, Derek Miller at extension 6879.