

STATE OF ALASKA

THE LEGISLATURE

1989

Source

Legislative
Resolve No.

HCS SJR 43(Jud) am H

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Relating to implementation by the Congress of the Tenth Amendment to the Constitution of the United States.

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

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

WHEREAS the limits under the Tenth Amendment on the authority of Congress to overrule the laws of the states have recently been reviewed by the United States Supreme Court in *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985) and *South Carolina v. Baker*, 485 U.S. ___, 99 L.Ed.2d 592 (1988); and

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

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

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

WHEREAS the Alaska State Legislature believes that the Tenth Amendment is a substantive limit on the power of the Congress and should be applied by courts of the United States and of the several states as a substantive limit on national power in cases coming before them when a question of the authority of the states

is raised;

BE IT RESOLVED that the President and the Congress are urged to carry out their constitutional responsibilities to protect and strengthen the position of the states in the federal union, to avoid intrusion upon the prerogatives of the states, and afford protection to the proper governing authorities of the states.

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