

STATE OF ALASKA
THE LEGISLATURE

1996

Source

SCS CSHJR 20(STA)

Legislative
Resolve No.

70



Urging the Congress of the United States to pass S. 1629, the Tenth Amendment Enforcement Act of 1996.

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

WHEREAS the United States Congress, by its authority to regulate commerce among the states, has repeatedly preempted state laws, including those relating to health, welfare, transportation, communications, banking, environment, and civil justice, reducing the ability of state legislatures to be responsive to their constituents; and

WHEREAS more than one-half of all federal laws preempting states have been enacted by the Congress since 1969, intensifying an erosion of state power that leaves an essential part of our constitutional structure -- federalism -- standing precariously; and

WHEREAS the United States Constitution anticipates that our American federalism will allow differences among state laws, expecting people to seek change through their own legislatures without federal legislators representing other states preempting states to impose national laws; and

WHEREAS constitutional tension necessary to protect liberty arises from the fact that federal law is "the supreme Law of the Land" while, in contrast, powers not delegated to the

federal government are reserved to the states or to the people, and that tension can exist only when states are not preempted and, thus, remain credible powers in the federal system; and

WHEREAS less federal preemption means states can act as laboratories of democracy, seeking novel social and economic policies without risk to the nation; and

WHEREAS S. 1629 is designed to create mechanisms for careful consideration of proposals that would preempt states in areas historically within their purview through procedural mechanisms in the legislative, executive, and judicial branches of government, namely

(1) in the legislative branch, by requiring a statement of constitutional authority and an expression of the intent to preempt states;

(2) in the executive branch, by curbing agencies that may preempt beyond their legislative authority;

(3) in the judicial branch, by codifying judicial deference to state laws where the Congress is not clear in its intent to preempt;

BE IT RESOLVED that the Alaska State Legislature urges that

(1) the congressional delegation of this state cosponsor S. 1629 in order to show its support for a decisive role for states within the federal system;

(2) the United States Congress enact S. 1629, the Tenth Amendment Enforcement Act of 1996, in order to strengthen the political safeguards of federalism as anticipated under the United States Constitution; and

(3) the President of the United States sign S. 1629 as a means of ensuring full consideration of federalism principles within the exercise of executive powers.

COPIES of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Bob Dole, Majority Leader of the U.S. Senate; to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.