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SENATE JOINT RESOLUTION NO. 228

Offered January 13, 1997

Memorializing the Congress of the United States to enact legislation that would require Congress to cite the constitutional authority for all proposed laws.

Patrons—Martin, Barry, Benedetti, Bolling, Chichester, Hawkins, Norment, Schrock, Stolle, Stosch and Trumbo; Delegates: Albo, Callahan, Cantor, Drake, Griffith, Katzen, Landes, May, McClure, McDonnell, Nixon, Reid, Rollison, Tata, Wardrup, Watkins and Way

Referred to the Committee on Rules

WHEREAS, the federal government was granted carefully limited powers by the states through the ratification of the Constitution of the United States; and

WHEREAS, the 10th Amendment to the Constitution of the United States specifies 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 framers of the Constitution recognized that the separation of powers is essential in protecting the rights of the people and extends not only to the three branches of the federal government, but also to the relationship between the federal government and state governments; and

WHEREAS, the three branches of the federal government have by many actions usurped powers reserved by the Constitution of the United States to the states and the people, thus severely unbalancing the relationship between the federal government and the state governments; and

WHEREAS, the federal judiciary has not taken any action to control these unwarranted assumptions of power by the federal government; and

WHEREAS, less federal preemption means states can act as true laboratories of democracy, developing novel social and economic policies without intruding into the affairs of the rest of the nation; and

WHEREAS, in order to restore the balance of power between the federal government and state governments as intended by the framers of the Constitution of the United States, the federal government must carefully consider, and be accountable for, the constitutional boundaries of its jurisdiction; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to enact legislation that would require Congress to cite the constitutional authority for all proposed laws; and, be it

RESOLVED FURTHER, That the enabling legislation enacted by Congress contain the following provisions:

1. To require Congress to state explicitly the extent to which the proposed section of any new law preempts any state, local, or tribal law, and if so, to provide the reasons for such preemption;

2. To prohibit federal agencies from promulgating rules or regulations (i) that preempt or otherwise interfere with state and local powers without express statutory authority and (ii) that do not give states notice and an opportunity to be heard in the rule-making process; and

3. If clause 3 of Section 8 of Article I of the Constitution of the United States is cited as the constitutional authority for the proposed law, to require Congress to report a list of factual findings establishing a substantial nexus between the regulatory effect of the proposed law and interstate commerce; and, be it

RESOLVED FINALLY, That the Clerk of the Senate transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly in this matter.

INTRODUCED

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