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H.C.R. No. 85

HOUSE CONCURRENT RESOLUTION

1 WHEREAS, The federal government was established by the states
2 through the ratification of the Constitution of the United States,
3 which granted carefully limited powers, yet through the years, the
4 relationship between the federal government and state governments
5 has been thrown out of balance; and

6 WHEREAS, The framers of the Constitution recognized that
7 separation of powers is essential and, accordingly, established
8 checks and balances not only among the branches of the federal
9 government but also between the federal government and state
10 governments; the Tenth Amendment to the United States Constitution
11 provides that "the powers not delegated to the United States by the
12 Constitution, nor prohibited by it to the States, are reserved to
13 the States respectively, or to the people"; and

14 WHEREAS, Increasingly, the executive and legislative
15 branches of the federal government have by many actions usurped
16 powers reserved to the states and to the people, and the federal
17 judiciary has failed to stop many of these excesses; federal
18 preemption of state powers prevents states from acting as true
19 laboratories of democracy, seeking novel social and economic
20 policies without risk to the nation; and

21 WHEREAS, To restore the balance of power between the federal
22 government and state governments intended by the framers of the
23 Constitution of the United States, the federal government must
24 carefully consider, and be accountable for, the constitutional

1 boundaries of its jurisdiction; now, therefore, be it

2 RESOLVED, That the 82nd Legislature of the State of Texas
3 hereby urge the United States Congress to enact legislation to
4 require that any subsequent law cite the section of the
5 Constitution authorizing Congress to enact the law, state
6 explicitly the extent to which the proposed section of law preempts
7 any state, local, or tribal law, and if it does preempt such a law,
8 provide an explanation of the reason or reasons for such
9 preemption; and, be it further

10 RESOLVED, That if Article I, Section 8, Clause 3, of the
11 Constitution of the United States is identified as the
12 constitutional provision granting authority to Congress for its
13 proposed law, Congress report a list of factual findings
14 establishing a substantial nexus between the regulatory effect of
15 the proposed law and interstate commerce; and, be it further

16 RESOLVED, That such legislation prohibit federal agency
17 rules and regulations from preempting or otherwise interfering with
18 state or local powers without express statutory authority and
19 require agencies to provide states with notice and an opportunity
20 to be heard in the rulemaking process; and, be it further

21 RESOLVED, That the Texas secretary of state forward official
22 copies of this resolution to the president of the United States, to
23 the president of the Senate and the speaker of the House of
24 Representatives of the United States Congress, and to all the
25 members of the Texas delegation to Congress with the request that
26 this resolution be entered in the Congressional Record as a
27 memorial to the Congress of the United States of America.