

Regular Session, 2013

SENATE CONCURRENT RESOLUTION NO. 113

BY SENATOR CROWE

INTERGOVERN RELATIONS. Establishes the Louisiana Balance of Powers Study Commission.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

A CONCURRENT RESOLUTION

To create and provide for the Louisiana Balance of Powers Study Commission to study federally generated laws, regulations, policies, procedures, directives and orders placed upon the state of Louisiana by the federal government and to recommend any action or legislation that the commission deems necessary and appropriate.

WHEREAS, the Tenth Amendment to the Constitution of the United States of America guarantees and reserves to the states and the people, all powers not delegated to the federal government elsewhere in the Constitution of the United States of America as they were originally intended and publicly understood at the time that the amendment was ratified on December 15, 1791, and subject only to modifications by duly ratified via subsequent amendments to the Constitution of the United States of America; and

WHEREAS, the guarantee of those powers is a matter of compact between the state and the people of Louisiana and the United States as of the time that Louisiana was admitted to statehood in 1812; and

WHEREAS, in accordance with the compact between the state and people of Louisiana and the United States as of the time that Louisiana was admitted to statehood in 1812, the Tenth Amendment to the Constitution of the United States of America reserves to the state and people of Louisiana that other than the enumerated powers expressly delegated

1 to the United States under Article I, Section 8 of the Constitution of the United States of
2 America, Congress and the federal government are prohibited from exercising any purported
3 additional control over, or commandeering rights belonging to the State of Louisiana, or its
4 people; and

5 WHEREAS, the Constitution of the United States of America on June 21, 1788,
6 affirms that the sole and sovereign power to regulate the state business and affairs rested in
7 the state legislature and has always been a compelling state concern and central to state
8 sovereignty and security; and

9 WHEREAS, the foregoing public meaning and understanding of Article I, Section
10 8, the Establishment clause of the First Amendment and the Tenth Amendment of the
11 Constitution of the United States of America is a matter of compact between the state and
12 people of Louisiana and the United States as of the time that Louisiana was admitted to
13 statehood in 1812; and

14 WHEREAS, the power to regulate commerce among the several states as delegated
15 to the Congress in Article I, Section 8, Clause 3 of the Constitution of the United States of
16 America as understood at the time of the founding, was meant to empower Congress to
17 regulate the buying and selling of products made by others, associated finance and financial
18 instruments, and navigation and other carriage, across state jurisdictional lines and that this
19 power to regulate commerce does not include agriculture, manufacturing, mining, crimes,
20 or land use, nor does it include activities that merely "substantially affect" commerce; and

21 WHEREAS, at the time the Constitution of the United States of America was ratified
22 on June 21, 1788, the Commerce Clause was not meant or understood to authorize Congress,
23 the Executive Branch, or the Federal Judiciary to regulate the state courts in the matter of
24 state substantive law or state judicial procedure and, therefore, this meaning and
25 understanding of Article I, Section 8, the Establishment Clause of the First Amendment and
26 the Tenth Amendment of the Constitution of the United States of America, as they pertain
27 to the validity of religious sectarian or foreign law as being controlling or influential
28 precedent has never been modified by any duly ratified amendment to the Constitution of
29 the United States of America; and

30 WHEREAS, Article I, Section 8, Clause 18 of the Constitution of the United States

1 of America, the necessary and proper clause, is not a blank check that empowers the federal
2 government to do anything it deems necessary or proper and is, instead, a limitation of
3 power under the common-law doctrine of principals and incidents, which restricts the power
4 of Congress to exercise incidental powers; and

5 WHEREAS, there are two main conditions required for something to be incidental,
6 and therefore, necessary and proper as follows: (1) the law or power exercised must be
7 directly applicable to the main, enumerated power, and (2) it must be lesser than the main
8 power; and

9 WHEREAS, in accordance with Article I, Section 8, Clause 1 of the Constitution of
10 the United States of America ratified on June 21, 1788, the general welfare clause, does not
11 empower the federal government with the ability to do anything it deems good; it is instead
12 a general restriction limiting the exercise of the enumerated powers of Congress set forth in
13 Article I, Section 8 of the Constitution of the United States of America, requiring that
14 Congress only enact laws which serve all citizens well and equally; and

15 WHEREAS, when James Madison was asked if this Article I, Section 8, Clause 1
16 were a grant of power, he replied "If not only the means but the objects are unlimited, the
17 parchment [the Constitution] should be thrown into the fire at once" and thus, we reestablish
18 that this clause is a limitation on the power of the federal government to act in the welfare
19 of all when passing laws in pursuance of the powers delegated to the United States, showing
20 no favor to any race, creed, color or socio-economic class; and

21 WHEREAS, likewise, the Commerce Clause was not meant or understood to
22 authorize Congress or the Federal Judiciary to establish religious, sectarian or foreign
23 statutes or case law as controlling or influential precedent; accordingly, the foregoing public
24 meaning and understanding of Article I, Section 8, the Establishment Clause of the First
25 Amendment and the Tenth Amendment of the Constitution of the United States of America
26 is a matter of compact between the state and people of Louisiana and the United States as
27 of the time that Louisiana was admitted to statehood in 1812; and

28 WHEREAS, the Legislature of Louisiana acknowledges that the Commerce Clause,
29 the General Welfare Clause, and the Necessary and Proper Clause of the Constitution of the
30 United States of America were amended, and made more specific and limiting at the peoples

1 insistence through the creation of the Bill of Rights, (i.e. the 2nd Amendment, the 9th
2 Amendment and the 10th Amendment); and

3 WHEREAS, all Amendments within the Bill of Rights were for the purpose of
4 further restricting federal powers, vesting or retaining the ultimate power and control of the
5 states by the people within the states, or both, and therefore, the Legislature of Louisiana
6 specifically rejects and denies any federal claim of expanded and/or additional authority
7 which the federal government may from time to time attempt to exert, exercise or enforce
8 under these clauses, as these actions totally disrupt and degrade the framer's of the
9 Constitution of the United States of America's emphasis on the balance of powers; and

10 WHEREAS, the people of the State of Louisiana and the Legislature of Louisiana,
11 are aware that the federal government has amended and altered the spirit and the meaning
12 of The Commerce Clause, all without proper legislative authority through amendment and,
13 therefore, the Legislature of Louisiana rejects and denies this unauthorized and excessive
14 abuse of power which has primarily acted as a detriment to states rights and individual
15 rights, a deliberate attempt to negatively alter the balance of powers; and

16 WHEREAS, in accordance with the Constitution of the United States of America,
17 Congress and the federal government is denied the power to establish or affect laws within
18 the state which are repugnant and obtrusive to the Constitution of the United States of
19 America, the Constitution of Louisiana, state law and the citizens of the state; and

20 WHEREAS, the federal government is restrained and confined in authority by the
21 eighteen items as set forth in Article I, Section 8 of the Constitution of the United States of
22 America; and

23 WHEREAS, Congress and the federal government is hereby denied the power to bind
24 the states under foreign statute, court order or opinion, or executive order, other than those
25 provisions duly ratified by the Congress as a treaty, so long as the treaty does not violate the
26 state or the Constitution of the United States of America; and

27 WHEREAS, further, no authority has ever been given to the Legislative Branch, the
28 Executive Branch, or the Judicial Branch, of the federal government, to preempt state
29 legislation, or to destroy the balance of powers, which is set forth in the Constitution of the
30 United States of America.

1 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby creates
2 the Louisiana Balance of Powers Study Commission to study the federally generated laws,
3 regulations, policies, procedures, directives and orders placed upon the state of Louisiana
4 by the federal government and to recommend any action or legislation that the commission
5 deems necessary and appropriate to the legislature.

6 BE IT FURTHER RESOLVED that the commission created herein shall consist of
7 the following eight members:

8 (1) The president of the Senate or his designee.

9 (2) The speaker of the House of Representatives or his designee.

10 (3) Three members of the Senate appointed by the president, one of whom shall
11 be a member of the minority party, and one of whom shall be designated by
12 the president as co-chairperson.

13 (4) Three members of the House of Representatives appointed by the speaker,
14 one of whom shall be a member of the minority party, and one of whom shall
15 be designated by the speaker as co-chairperson.

16 BE IT FURTHER RESOLVED that in conducting such study, the commission may
17 review any and all existing agent federal statutes, mandates or executive orders and
18 recommend nullification of any bill that is unconstitutional to the legislature.

19 BE IT FURTHER RESOLVED that the members of the commission shall serve
20 without compensation, except per diem or expenses reimbursement to which they may be
21 individually entitled as members of the constituent organizations.

22 BE IT FURTHER RESOLVED that a majority of the total membership shall
23 constitute a quorum of the commission and any official action by the commission shall
24 require an affirmative vote of a majority of the quorum present and voting.

25 BE IT FURTHER RESOLVED that the commission may conduct such meetings at
26 such times as it may deem necessary or convenient to enable it to exercise fully and
27 effectively its powers, perform its duties, and accomplish the objectives and purposes of this
28 Resolution.

29 BE IT FURTHER RESOLVED that the staff assigned to the Senate Committee on
30 Labor and Industrial Relations shall serve as staff for the commission.

1 BE IT FURTHER RESOLVED that in the event that the commission shall make a
2 written report of its findings and recommendations, with suggestions for proposed
3 legislation, if any, to the legislature no later than sixty days prior to the convening of the
4 2014 Regular Session.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Carla S. Roberts .

DIGEST

Crowe

SCR No. 113

Creates the Louisiana Balance of Powers Study Commission to study federally generated laws, regulations, policies, procedures, directives and orders placed upon the state by the federal government and to recommend any action or legislation that the commission deems necessary and appropriate.

Provides that the members of the commission shall be:

- (1) The Senate president or his designee.
- (2) The House speaker or his designee.
- (3) Three Senate members appointed by the president, one of whom shall be a member of the minority party and one of whom shall be designated co-chair.
- (4) Three House members appointed by the speaker, one of whom shall be a member of the minority party and one of whom shall be designated co-chair.

Specifies that the members of the commission serve without compensation, except for such reimbursement or per diem they are individually entitled to as members of the constituent group they represent.

Requires that the commission may make a written report of its recommendations to the legislature, with any recommendations for legislation, not later than 60 days prior to the 2014 RS.