

1 SJR97
2 169945-2
3 By Senator Waggoner
4 RFD: Rules
5 First Read: 28-MAY-15

1 SJR97

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4 ENGROSSED

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6 URGING INCREASED OVERSIGHT OF AND OPPOSITION TO
7 EPA'S ACTIVITIES IN ALABAMA.

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9 WHEREAS, the Alabama Department of Environmental
10 Management (ADEM) is entrusted by the citizens of Alabama to
11 manage the State's resources in a manner compatible with the
12 environment and the health and welfare of the citizens of the
13 State; and

14 WHEREAS, ADEM oversees a comprehensive and
15 coordinated program of environmental management capable of
16 protecting Alabama's citizens from environmental and health
17 hazards; and

18 WHEREAS, ADEM has an exemplary record of applying
19 its regulatory programs in a fair and consistent manner; and

20 WHEREAS, Alabama depends on strong, viable
21 businesses to provide jobs, stability, and tax revenue for its
22 diverse communities; and

23 WHEREAS, businesses which comply with all applicable
24 federal, state, and local environmental obligations should be
25 free to operate without persistent interference from the
26 United States Environmental Protection Agency (EPA) and
27 others; and

1 WHEREAS, EPA has applied its enforcement authority
2 arbitrarily and unfairly in some of its activities in North
3 Birmingham and Tarrant; and

4 WHEREAS, EPA has proposed the "35th Avenue Site" in
5 North Birmingham for inclusion on the National Priority List
6 (NPL) of Superfund sites, despite inadequate technical and
7 legal basis for doing so and without the State's support; and

8 WHEREAS, EPA is attempting to impose a novel and
9 overbroad "air deposition" theory of Superfund liability which
10 would allow EPA to pursue industrial facilities for
11 contamination at non-contiguous properties on the basis of air
12 emissions which are subject to the federal Clean Air Act and
13 authorized by a valid air operating permit; and

14 WHEREAS, EPA's broad air deposition theory would
15 allow EPA to order businesses to clean up hazardous
16 contamination within an indefinite area before proving that
17 the business was actually responsible; and

18 WHEREAS, EPA is pursuing this air deposition theory
19 as an illicit means for funding policy initiatives which are
20 outside its regulatory authority; and

21 WHEREAS, EPA lacks legal authority under the
22 Comprehensive Environmental Response, Compensation, and
23 Liability Act (CERCLA) or other federal law to impose this
24 theory of air deposition liability; and

25 WHEREAS, the Alabama Attorney General has submitted
26 comments to EPA vigorously objecting to EPA's methods of
27 investigating the 35th Avenue site, assessing its own

1 findings, proposing the site for inclusion on the NPL, and
2 identifying PRPs; and

3 WHEREAS, ADEM has objected to EPA proposing the site
4 for inclusion on the NPL; now therefore,

5 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
6 HOUSES THEREOF CONCURRING, That we urge the EPA to reconsider
7 its proposal to include the 35th Avenue site on the NPL
8 without the support of the State.

9 BE IT FURTHER RESOLVED, That we urge EPA to refrain
10 from acting outside of its statutory authority in North
11 Birmingham, Tarrant, and other communities in Alabama, and
12 specifically to abandon its questionable "air deposition"
13 theory of CERCLA liability.

14 BE IT FURTHER RESOLVED, That we urge the Attorney
15 General and ADEM to combat the EPA's overreach and request
16 that the Governor and Alabama's Congressional Delegation take
17 any and all steps within their power to ensure that EPA's
18 activities in Birmingham, and elsewhere throughout the state,
19 remain squarely within its express statutory authority and are
20 appropriate for a science-based, regulatory agency entrusted
21 with regulating American businesses.

22 BE IT FURTHER RESOLVED, That we support the comments
23 and objections offered by the Attorney General and ADEM in
24 response to EPA's overreaching, and we support both the
25 Attorney General and ADEM as they continue in their legal
26 opposition to the EPA's overreach.

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Senate

Introduced and referred to the Senate committee on Rules.....	28-MAY-15
Reported from Rules.....	02-JUN-15
Read for the third time and adopted as amended ...	02-JUN-15

Patrick Harris
Secretary