

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

1 SJR97

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4 ENROLLED, SJR97,

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

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

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

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

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

22 WHEREAS, businesses which comply with all applicable  
23 federal, state, and local environmental obligations should be  
24 free to operate without persistent interference from the

1 United States Environmental Protection Agency (EPA) and  
2 others; and

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

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

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

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

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

23 WHEREAS, EPA lacks legal authority under the  
24 Comprehensive Environmental Response, Compensation, and

1 Liability Act (CERCLA) or other federal law to impose this  
2 theory of air deposition liability; and

3 WHEREAS, the Alabama Attorney General has submitted  
4 comments to EPA vigorously objecting to EPA's methods of  
5 investigating the 35th Avenue site, assessing its own  
6 findings, proposing the site for inclusion on the NPL, and  
7 identifying PRPs; and

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

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

14 BE IT FURTHER RESOLVED, That we urge EPA to refrain  
15 from acting outside of its statutory authority in North  
16 Birmingham, Tarrant, and other communities in Alabama, and  
17 specifically to abandon its questionable "air deposition"  
18 theory of CERCLA liability.

19 BE IT FURTHER RESOLVED, That we urge the Attorney  
20 General and ADEM to combat the EPA's overreach and request  
21 that the Governor and Alabama's Congressional Delegation take  
22 any and all steps within their power to ensure that EPA's  
23 activities in Birmingham, and elsewhere throughout the state,  
24 remain squarely within its express statutory authority and are

1       appropriate for a science-based, regulatory agency entrusted  
2       with regulating American businesses.

3               BE IT FURTHER RESOLVED, That we support the comments  
4       and objections offered by the Attorney General and ADEM in  
5       response to EPA's overreaching, and we support both the  
6       Attorney General and ADEM as they continue in their legal  
7       opposition to the EPA's overreach.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SJR97

Senate 02-JUN-15

I hereby certify that the within Senate Joint Resolution originated in and was adopted by the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Adopted: 03-JUN-15

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By: Senator Waggoner