

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

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8 URGING INCREASED OVERSIGHT OF AND OPPOSITION TO
9 EPA'S ACTIVITIES IN ALABAMA.

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

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

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

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

25 WHEREAS, businesses which comply with all applicable
26 federal, state, and local environmental obligations should be
27 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
25 Liability Act (CERCLA) or other federal law to impose this
26 theory of air deposition liability; and

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

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

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

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

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

25 BE IT FURTHER RESOLVED, That we support the comments
26 and objections offered by the Attorney General and ADEM in
27 response to EPA's overreaching, and we support both the

1 Attorney General and ADEM as they continue in their legal
2 opposition to the EPA's overreach.

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President and Presiding Officer of the Senate

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

House of Representatives
Adopted: 03-JUN-15

By: Senator Waggoner