

STATE INTERPOSITION ACT

Senate Bill # _____ House Bill # _____

PREAMBLE

WHEREAS, the State of Tennessee being a Sovereign State established a State government by contract approved by its citizens, being the Constitution of the State of Tennessee, invoked by citizens honor in February 1796, binding themselves and their posterity in perpetuity, irrevocably to the terms and conditions set forth in the Constitution of the State of Tennessee, and

WHEREAS, the State of Tennessee subsequently voluntarily entered into the Federal government of the United States of America by contract with 15 Sovereign States, being The Constitution of The United States, also invoked in honor in June 1796, binding themselves and their posterity in perpetuity, on their honor, irrevocably, to the terms and conditions set forth in the United States Constitution, and

WHEREAS, the Sovereign State of Tennessee by contract with those 15 States delegated authority in specific governing powers known as the Enumerated Powers to the United States Government created by the States through their United States Constitution document, and

WHEREAS, the Sovereign State of Tennessee by contract with those 15 States, retained all authority and governing powers not specifically delegated in the Enumerated Powers to the United States Government, regarding the citizens of Tennessee, as did all the other 15 States retain authority and governing power for their Sovereign States and its citizens, and

WHEREAS, the Sovereign State of Tennessee functions as a Sovereign State are restricted only by the Enumerated Powers specifically delegated to the Federal Government in the Terms and Conditions of the Constitution of the United States, and

WHEREAS, James Madison, in his Virginia Resolution of 1798, asserted State governments not only have the right to resist unconstitutional Federal acts, but that, in order to protect liberty, they are “duty bound to interpose” or stand between the Federal government and the people of their state, and

WHEREAS, the State Government of the Sovereign State of Tennessee agreed it has the Right, Duty, and Moral Obligation to Interpose on behalf of its citizens whenever its Sovereign State Rights are Usurped, Attacked, or Encroached, by any entity who would do so, including the United States Government exceeding the specific authority and powers granted by the Terms and Conditions agreed upon by the Sovereign State of Tennessee in the Constitution of the United States, and

WHEREAS, the Sovereign State of Tennessee does not require advance permission or approval from the Federal Government to act to protect and defend the rights of its citizens and State, and

WHEREAS, the Legislative, Executive, and Judicial Branches of Federal Government have historically resolved among themselves one or more Branches that have Usurped, Attacked, or Encroached the Terms and Conditions of the Constitution of the United States, and

WHEREAS, the Sovereign State of Tennessee is bound by contract with all the 50 States, being the Constitution of the United States, there exists no prior codified process by which to address a breach of contract, being the Constitution of the United States, by any entity outside the State of Tennessee, including, but not limited to, the Federal Government, and

WHEREAS, the Sovereign State of Tennessee delegated its authority to resolve such issues and disputes over offenses by the Federal Government or other Sovereign States in the United States, exclusively to the Supreme Court of the United States, but never delegated its State Right, Authority, Duty, or Moral Obligation to Interpose on behalf of its citizens, and

WHEREAS, Chief Justice John Roberts majority opinion in the *National Federation of Business et al v. Sebelius, 2011* embedded clarified instructions regarding State Interposition Acts, as quoted directly herein:

Chief Justice John Roberts Majority Opinion...

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That insight has led this Court to strike down federal legislation that commandeers a State’s legislative or administrative apparatus for federal purposes. See, e.g. *Printz, 521 U. S., at 933* (striking down federal legislation compelling state law enforcement officers to perform federally mandated background checks on handgun purchasers); *New York, supra, at 174–175* (invalidating provisions of an Act that would compel a State to either take title to nuclear waste or enact particular state waste regulations). It has also led us to scrutinize Spending Clause legislation to ensure that Congress is not using financial inducements to exert a “power akin to undue influence.” *Steward Machine Co. v. Davis, 301 U. S. 548, 590 (1937)*. Congress may use its spending power to create incentives for States to act in accordance with federal policies. **But when “pressure turns into compulsion,” *ibid.*, the legislation runs contrary to our system of federalism.**

“[T]he Constitution simply does not give Congress the authority to require the States to regulate.” *New York, 48 505 U. S., at 178*. That is true whether Congress directly commands a State to regulate or indirectly coerces a State to adopt a federal regulatory system as its own.

Permitting the Federal Government to force the States to implement a federal program would threaten the political accountability key to our federal system. “[W]here the Federal Government directs the States to regulate, it may be state officials who will bear the brunt of

public disapproval, while the federal officials who devised the regulatory program may remain insulated from the electoral ramifications of their decision.” *Id.*, at 169. Spending Clause programs do not pose this danger when a State has a legitimate choice whether to accept the federal conditions in exchange for federal funds. In such a situation, state officials can fairly be held politically accountable for choosing to accept or refuse the federal offer. But when the State has no choice, the Federal Government can achieve its objectives without accountability, just as in *New York and Printz*. Indeed, this danger is heightened when Congress acts under the Spending Clause, because Congress can use that power to implement federal policy it could not impose directly under its enumerated powers. We addressed such concerns in *Steward Machine*. That case involved a federal tax on employers that was abated if the businesses paid into a state unemployment plan that met certain federally specified conditions. An employer sued, alleging that the tax was impermissibly “driv[ing] the state legislatures under the whip of economic pressure into the enactment of unemployment compensation laws at the bidding of the central government.” 301 U. S., at 587. We acknowledged the danger that the Federal Government might employ its taxing power to exert a “power akin to undue influence” upon the States. *Id.* at 590.

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“As our decision in *Steward Machine* confirms, Congress may attach appropriate conditions to federal taxing and spending programs to preserve its control over the use of federal funds. **In the typical case we look to the States to defend their prerogatives by adopting “the simple expedient of not yielding”** to federal blandishments when they do not want to embrace the federal policies as their own. *Massachusetts v. Mellon*, 262 U. S. 447, 482 (1923). **The States are separate and independent sovereigns. Sometimes they have to act like it.”**

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Our cases refer to this general power of governing, possessed by the States but not by the Federal Government, as the “police power.” See, e.g., *United States v. Morrison*, 529 U. S. 598, 618–619 (2000). **“State sovereignty is not just an end in itself: Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power.”** *New York v. United States*, 505 U. S. 144, 181 (1992) (internal quotation marks omitted). Because the police power is controlled by 50 different States instead of one national sovereign, the facets of governing that touch on citizens’ daily lives are normally administered by smaller governments closer to the governed. The Framers thus ensured that powers which “in the ordinary course of affairs, concern the lives, liberties, and properties of the people” were held by governments more local and more accountable than a distant federal bureaucracy. *The Federalist* No. 45, at 293 (J. Madison). **The independent power of the States also serves as a check on the power of the Federal Government: “By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power.”** *Bond v. United States*, 564 U. S.

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As our jurisprudence under the Necessary and Proper Clause has developed, we have been very deferential to Congress's determination that a regulation is "necessary." We have thus upheld laws that are "'convenient, or useful' or 'conducive' to the authority's 'beneficial exercise.'" Comstock, 560 U. S., at ___ (slip op., at 5) (quoting McCulloch, supra, at 413, 418). **But we have also carried out our responsibility to declare unconstitutional those laws that undermine the structure of government established by the Constitution. Such laws, which are not "consist[ent] with the letter and spirit of the constitution,"** McCulloch, supra, at 421, are not **"proper [means] for carrying into Execution"** Congress's enumerated powers. **Rather, they are, "in the words of The Federalist, 'merely acts of usurpation' which 'deserve to be treated as such.'"** Printz v. United States, 521 U. S. 898, 924 (1997) (alterations omitted) (quoting The Federalist No. 33, at 204 (A. Hamilton)); see also New York, 505 U. S., at 177; Comstock, supra, at ___ (slip op., at 5) (KENNEDY, J., concurring in judgment) ("It is of fundamental importance to consider whether essential attributes of state sovereignty are compromised by the assertion of federal power under the Necessary and Proper Clause . . ."), and

WHEREAS, further rulings by the Supreme Court of the United States provide as legal foundation...

"No court ought, unless the terms of an act rendered it unavoidable, to give a construction to it which should involve a violation, however unintentional, of the constitution." Justice Story...Parsons v. Bedford, 3 Pet. 433, 448–449 (1830).

"When Congress threatens to terminate other grants as a means of pressuring the States to accept a Spending Clause program, the legislation runs counter to this Nation's system of federalism". Cf. South Dakota v. Dole, 483 U. S. 203, 211. Pp. 45–51., and

WHEREAS, the Sovereign State of Tennessee seeks to Codify the Legal Process by which State Interposition Acts may resist, protect and defend the State Rights and Citizen rights from any entity outside the State who would usurp, attack, encroach, upon those rights otherwise, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE,

An Act to codify in perpetuity to ***"...defend State prerogatives by adopting "the simple expedient of not yielding" to federal blandishments whenever we do not want to embrace the federal policies, as States are separate and independent sovereigns. Sometimes States have to act like it."*** -- Chief Justice John Roberts, Supreme Court of the United States 2012

Section 1. This Bill prayerfully asserts the sworn duty and process of our Sovereign State to instantly act to prevent until ultimate defeat is achieved, any usurpation or encroachment attempt

upon our Sovereign State or Citizens, our Intrastate Commerce, Culture, Federalism, or Independence, by any entity, including The United States of America, or any governing body empowered in any manner by the United States of America by treaty or Federal Law.

This Bill specifically identifies, asserts and hereby codifies powers granted in the 10th Amendment of the Constitution of the United States of America, into the duty and process.

Section 2. Nothing contained in this Act shall impair the validity of any existing debts or contracts, or affect any rights of property or any suits, actions, rights of action or other proceedings in Courts of Justice, or the execution of oath of office to uphold State Rights in harmony with the Constitution of the State of Tennessee, the Constitution of the United States, or Laws.

Section 3. STATE INTERPOSITION PROCESS ALERT CHANNEL

Defining and Codifying *“the simple expedient of not yielding”*

- a. Alert training process created for, and delegation to, all appropriate levels of State Government officials, including Governor, Department Heads, Legislators, is required to prevent or stop existing usurpation and encroachment, but delegation does not abdicate personal sworn duty of any State Government official, whether elected or appointed.
- b. Every State citizen is equally charged with citizen duty to remain aware and alert an elected State Government official over any perception of usurpation or encroachment.
- c. State Legislators in both Houses will each appoint citizens in their District to chair and recruit a State Sovereignty Team to advise that House or Senate member, with a minimum 12 registered voters on a non- partisan basis, assigning each member an area of primary concern to monitor potential encroachment.
- d. The purpose and mission of the two State Sovereignty Teams in each District are to efficiently harness in perpetuity the intellectual capital of citizens state wide on a non- partisan basis, create the Alert Training Curriculum to be approved by a majority of the State Legislature, and report potential violations immediately to their State Legislators in both Houses. The House Team and Senate Team in each District will meet quarterly at minimum, preferably monthly and report activities and information to their Legislator.
- e. State Legislators and all State Government officials alerted have sworn duty to document any citizen alert, vet any alert for validity and timely notify directly the person(s) most

likely to have authority and responsibility to resolve the issues alerted, and then timely inform the alerting citizen(s) as to the status of their alert until final resolution.

- f. State Legislators, Governor, and Governor's Department Heads validate issues and expedite interposition as needed to stop the specific usurpation or encroachment. Special Session of the State Legislature may be called by the Governor at his pleasure, or whenever a majority of State Legislators petition the Governor to do so for Interposition Acts to be considered and passed into law.
- g. Governor will notify all parties Intrastate, affected by offending actions, including State Legislators, Corporations, Businesses, as Governor deems appropriate, with intent to seek and harness State Intellectual Capital needed to address and resolve offending actions.
- h. State Interposition Act for the specific issue of encroachment must contain all the legal encroachment issues, orderly specified, with any legal precedent or Judicial position, for the purpose of making public the State grievances, positions, authorities, and actions. In this manner, State Interposition Acts Interpose to protect against encroachment, but do so in the orderly process expected in an honorable civil society with inevitable differences. In this manner, the State Interposes yet honors its contract by its orderly, non discriminatory process of documenting its grievances in honorable agreement with its contract with the Supreme Court of the United States, being the Constitution of the United States.
- i. Quid Pro Quo, Caveat Emptor, No Free Lunch Rules filter resides in State personnel. State Government officials, elected, appointed, employed, or contracted, have sworn duty to set aside personal or political agendas, to search, research, and investigate with all due diligence, every action, program, dollar gifted, grant, earmark, or transaction within our State borders, of any Government entity originating outside State Government or State Borders, to ascertain any specific, suspected or potential usurpation or encroachment, and alert all appropriate State Government officials whenever offending actions exist or may exist or are imminent, exerting whatever is required to begin the process of validation and Interposition.
- j. Sister State's Network. States with similar values must be identified, secure communication established and implemented for secure exchange of information, training, and strategies regarding usurpation and encroachment, with Governor, Department Heads, State Legislator Leadership, and counterparts in each State actively inspecting and communicating regularly as the foundation of the Alerts Channel.

- k. Sister State Notice issued by Governor and State Legislature counterparts to share information and appropriate strategies should parallel Interposition actions.
- l. Public Notice Intrastate shall be issued when any usurpation or encroachment Alert is validated.
- m. INTERPOSITION actions by Governor and State Legislature Leaders are not to be impeded in any manner at any time in any process, when irreparable harm exists.

Section 4. INTERPOSITION PROCESS

- a. Written Notice of specific, suspected or potential usurpation or encroachment as determined by the State Legislature, is delivered by the Governor directly to the offending counterpart, Chief Executive, as a courtesy, but with a clear demand to cease and desist the offending actions immediately, setting a deadline no later than 30 days.
- b. State Interposition Act for the specific issue will be codified by the State Legislature, by Special session if determined needed by a majority of State Legislators.
- c. Written Notice of State Interposition actions, ab initio, is delivered by the Governor to the offending counterpart Chief Executive, including appropriate Legal and Judicial relief sought, listing the State Legal Process for Interposition, and List of Grievances at issue.
- d. Interposition actions required are determined solely by State Legislator majority, with the Governor input and oversight, then delivered to the Governor for executive oversight and timely execution, which does not cease until offending actions are defeated permanently, and all State citizens made whole.
- e. Governor will execute the Legislator Interposition plan in timely manner without fail. The State Legislature by majority vote may appoint the Lieutenant Governor to execute Interposition in the event the Governor fails to do so in timely manner.

Section 5. LEGAL REMEDIES

- a. Chief Justice Roberts confirms Independent State Sovereignty, the State Right of ***“the simple expedient of not yielding”*** to Federal Government usurpation or encroachment, and further ***unspecified*** remedies:

“...defend State prerogatives by adopting “the simple expedient of not yielding” to federal blandishments whenever we do not want to embrace the federal policies, as States are separate and independent sovereigns. Sometimes States have to act like it.”

- b. All reasonable legal avenues, negotiations by Governor or his/her assigns, strategies and tactics favorable to State interests, or other actions deemed appropriate by the State Legislature majority must be exhausted in good faith to resolve offending actions, but no compromise will ensue that harms or diminishes our State Rights or citizen rights.
- c. Full recovery and restoration of all damages with all costs incurred in doing so, is the minimum acceptable remedy, whereas maximum appropriate Penalties and Treble damages as Punitive damages applies to all offenders failing to cease after notice.
- d. Failure to resolve offending actions and actors after all known remedies are exhausted, require action based upon our State and Federal Constitution, specifically to identify and implement State Constitution instructions to reform or abolish existing government and form a new one acceptable to a majority of State citizens by State wide vote.
- e. Criminal penalties for persons failing to heed the Governor’s warnings to cease and desist include, but not be limited to, a minimum of 12 months and maximum of 36 months in a State Prison, plus restitution of all damages caused the State or its Citizens. Such criminal statute is required to be created if not already available in Tennessee Code Annotated.

Section 6. Severability

- a. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

This act shall take effect upon becoming a law, the public welfare requiring it.