

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE/FEDERAL RELATIONS

Call to Order: By **CHAIRMAN AUBYN CURTISS**, on January 31, 1995,
at 11:00 a.m.

ROLL CALL

Members Present:

Rep. Aubyn A. Curtiss, Chairman (R)
Rep. Roger Somerville, Vice Chairman (Majority) (R)
Rep. Matt Brainard (R)
Rep. Bill Carey (D)
Rep. Daniel W. McGee (R)
Rep. Judy Murdock (R)
Rep. Robert J. "Bob" Pavlovich (D)
Rep. William R. Wiseman (R)

Members Excused: None.

Members Absent:

Rep. Patrick Galvin (D)
Rep. Ray Peck (D)
Rep. George Heavy Runner, Vice Chairman (Minority) (D)

Staff Present: Patti Borneman, Secretary

(Note: The meeting room was changed at the last minute which resulted in some members not able to attend.)

Committee Business Summary:

Hearing: SJR 3

{Tape: 1; Side: A}

HEARING ON SJR 3

Opening Statement by Sponsor:

SEN. STEVE BENEDICT, SD 30, addressed the House committee to describe Senate Joint Resolution 3 and said he believes this resolution is the first step in reasserting states' rights guaranteed by the U.S. Constitution. He said that states have seen a constant erosion of their rights to establish their own rules of governance. He said that according to the U.S. Supreme Court, Congress may not commandeer the legislative and regulatory processes of the states. However, he said, this is exactly what has been happening to the states for many years. He said the resolution has no "force of law" but it demands that Congress obey the Constitution and "keep their federal noses out of our state's business." He stated that it would reestablish

sovereignty and states' rights. He said that he would like to reserve the right to close the meeting.

Proponents' Testimony:

Leo Giacometto, Governor's Office, stated that Governor Racicot rises in full support of the resolution and while some say they support states' rights, the federal government needs to realize that the state is willing and wants its sovereignty, and they believe this resolution will send back a firm message from the state, that it's clear and on the record, and that the 10th Amendment is upheld. He urged the committee's support and passage of the resolution.

Neal Ganser, Bozeman, said that prior to 1913 the states each had direct representation to their agent, the U.S. federal government by the election of U.S. senators from the state legislatures. He said the 17th amendment transferred the election of U.S. senators to the people. Thus, he said, the states lost their representation to their federal agent and states are now left with 10th amendment resolutions and the courts in which to plead their constitutional protections against an overwhelming federal presence within their own state's jurisdictions. He said they have the opportunity and obligation to the people to pass this resolution. He said that the constant tension between state and federal governments is healthy only as long as the states prevail. In reference to mandates, he said that the federal government has "commandeered" the entire taxation system in the state.

Bob Davies, businessman from Bozeman, stated his support of the resolution and said that there is little concern on the part of the public and that the U.S. Constitution is rarely mentioned. He said there is little concern for what powers the Constitution grants the federal government. He said that polls are paid more attention and information can be manipulated by the media, so it "is necessary for the states to reassert themselves by this process in order to get some recognition for the Constitution, once again." He said the country was founded as a constitutional republic and has been converted into a democracy "which has been equated with mob rule ... and history clearly shows that the end of this process is tyranny." He quoted a 19th-century English historian who said, essentially, that democracies cannot last since they give people the power to vote themselves "largesse in the public treasury" soon followed by collapse into a dictatorship. He said he believes the resolution is a step in the right direction to reverse that trend.

Don Doig, Helmville, said that he supports passage of the resolution and pointed out that Montana would not be the first; there are a number of other states doing this. He said it is a wise thing to do and believes the rights belong with the states and thinks it would help preserve the rights of the individual. He urged the committee's support.

Laurie Koutnik, executive director, Christian Coalition of Montana, representing 26,000 households, stated that they support the resolution. She said they recognize that the federal government has "come in with some very intrusive language and mandates." The Christian Coalition believes that the states should maintain the rights and restated their support of the resolution.

Opponents' Testimony:

Jim Jensen, executive director, Montana Environmental Information Center, said that many of the concerns expressed regarding federal mandates pertain to environmental regulation, such as the Clean Water Act and the Clean Air Act. He said that some supporters of this type of legislation are "simply wanting to allow pollution to continue or be allowed in individual states. And the reason that we need federal laws is that pollution, in fact, doesn't know boundaries. We're a headwater state in Montana, for example, and water that is generated here goes to other states. If we are allowed to pollute our water and degrade it for others, or if others are allowed to degrade water that flows into Montana, only the federal government can act to make each state behave responsibly for the general benefit of the nation." He said they oppose the resolution and urged the committee to vote no.

Christine Kaufman, director, Montana Human Rights Network, described the objectives of her organization. She said the purpose of resolutions are to send a message and the sponsor described this resolution as one that would "tell the federal government to get their noses out of our business." She said her concern is with the impact to human rights law, although she doesn't believe it is the intent of the sponsor. She said the Human Rights Act of 1964, a federal act, has certain costs to state government, but explained why it was necessary. She said the federal government is also a government of the people; she votes for federal leaders and is concerned about the implications that "we don't care anymore about our Constitution." She said it is "a flexible document that changes over time. It's been interpreted in terms of what the appropriate role and function of governments are for the past 200 years." She urged rejection of the resolution.

Don Judge, AFL-CIO, submitted written testimony. **Exhibit 1.** He said that the U.S. Constitution was set to address problems that all the states share in common, such as poverty. He asked the committee to imagine the competition between states to maintain a quality of life that might disappear if certain federal programs were no longer available. The federal government sets standards on how to address poverty, pollution, defense, veterans' rights, education. He said that there is a reason that the executive branch has adopted policies and "in fact, I guess you could say, imposed those policies on the states. Sometimes they provide those policies but don't provide the funding. ... Unfunded

mandates are another piece of legislation ... but what would you do if Congress were not taking some role on those activities?" He mentioned the problem with water quality being affected by other state's activities. He said that sometimes it sounds good to say "let's get government off our backs" but said that, for instance, a state as large as Montana benefits greatly from transportation funds that repair roads, and they could be told by the federal government to find state funds for such projects. He urged a do not pass vote.

Questions From Committee Members and Responses:

CHAIRMAN CURTISS apologized to the sponsor for the absent representatives who may not have been aware of the change in the meeting room, which was announced just that morning.

REP. MATT BRAINARD asked **Christine Kaufman** if she perceives that the federal government is the only institution in the U.S. that will watch out for civil rights.

Ms. Kaufman said that the state also does, in the protection afforded by a state human rights act.

Closing by Sponsor:

SEN. BENEDICT responded to testimony by opponents regarding pollution and said he doesn't see anything in the resolution that the state of Montana intends to encourage environmental degradation or the lessening of human rights. He said there isn't a "boogy man" in the resolution. He listed states that have already adopted a states rights resolution: California, Colorado, Missouri, and Hawaii. States in which such legislation is pending are Oklahoma, Ohio, New Jersey, Pennsylvania, Utah, Wyoming, Oregon, Idaho, Washington, New Mexico, Nevada and Montana. He read from James Madison, as follows: "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which remain to the state governments are numerous and indefinite. The former, that being the powers delegated to the federal government, will be exercised principally on external objects such as war, peace, negotiation and foreign commerce." He addressed the concerns of **Don Judge** regarding pollution crossing borders, for instance from Canada, and said that it would come under the foreign commerce protection clause. He said the "heart of the whole thing" is "the powers reserved to the several states will extend to all the objects which in an ordinary course of affairs concern the lives, liberties and properties of the people, and the internal border improvement and prosperity of the state." He stressed that the federal government's intrusion conflicts with this statement. He said that, for instance, educational methodology, the right to keep and bear arms, and traffic regulations are controlled by the federal government. He urged they pass the resolution.

HOUSE STATE/FEDERAL RELATIONS COMMITTEE

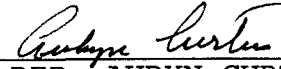
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CHAIRMAN CURTISS said that executive action would be postponed because many of the representatives were not present. She also said that consideration of HB 15 would take place at the next meeting.

ADJOURNMENT

Adjournment: The meeting was adjourned at 11:25 a.m.



REP. AUBYN CURTISS, Chairman



PATTI BORNEMAN, Secretary

This meeting was recorded on one 60-minute tape.

AC/pb

HOUSE OF REPRESENTATIVES

State/Federal Relations

ROLL CALL

DATE 1/31/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Aubyn Curtiss, Chairman	✓		
Rep. Roger Somerville, Vice Chair, Majority	✓		
Rep. George Heavy Runner, Vice Chair, Min.		✓	
Rep. Matt Brainard	✓		
Rep. Bill Carey	✓		
Rep. Pat Galvin		✓	
Rep. Daniel McGee	✓		
Rep. Judy Rice Murdock	✓		
Rep. Bob Pavlovich	✓		
Rep. Ray Peck		✓	
Rep. Bill Wiseman	✓		



Montana State AFL-CIO

110 West 13th Street, P.O. Box 1176, Helena, Montana 59624

EXHIBIT 1
DATE 1/31/95
SF 3
Donald R. Judge
Executive Secretary

406-442-1708

Testimony of Don Judge on Senate Joint Resolution 3, hearings of the House Committee on State-Federal Relations, Tuesday, January 31, 1995

Mr. Chairman, members of the committee, for the record, my name is Don Judge and I represent the Montana State AFL-CIO. I am here today to urge your strong opposition to Senate Joint Resolution 3.

This resolution claims that the federal government violates the U.S. Constitution in "many" instances, but identifies none. SJR 3 does not cite even general areas in which the federal government has violated the 10th Amendment. Instead, it makes unsubstantiated and irresponsible charges that the duly elected government of the United States is in violation of the Constitution.

If a citizen of the United States -- or if the Montana State Legislature as a body believes that certain actions of the federal government violate the law of the land, it is the duty of that citizen or of the Legislature to call attention to the violations and ask our courts to determine the constitutionality of the action. However, unsubstantiated and reckless charges of unconstitutional action based on a mistaken understanding of the 10th Amendment, may be politically popular today, but they are simply irresponsible and destructive to our state and our nation in the long term.

For example, consider even a few of the beneficial federal laws -- laws that have helped hundreds of thousands of average Montana citizens live better lives -- laws that are threatened by SJR 3 and its companion bills:

- Student Loan Reform
- Food Stamp Program
- National Voter Registration Act
- National Child Protection Act
- United States Grain Standards Act
- Cable Television Consumer Protection Act
- College Work Study Program
- Drug-Free Schools and Community Act
- Education for All Handicapped Children
- Clean Air Act
- Superfund
- Federal Water Pollution Control Act
- Civil Rights Act of 1964
- Americans with Disabilities Act of 1990
- Older Americans Act
- Black Lung Benefits Act
- Davis-Bacon Act of 1981
- Disabled Veterans Outreach
- Fair Labor Standards Act of 1938
- Veterans Education Assistance
- National School Lunch Act
- SSI - Supplemental Security Income for the Aged, Blind and Disabled
- Carl D. Perkins Vocational and Applied Technology Education Act
- Federal Unemployment Tax Act
- Job Training Partnership Act
- Contract Work Hours and Safety Standards
- Occupational Safety and Health Act of 1970
- Federal Mine Safety and Health Act of 1977

Testimony of Don Judge
SJR 3, January 31, 1995
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Some may view SJR 3 as a simple little resolution without the effect of law, but SJR 3 is only the first in a series of bills that attempt to redefine the traditional relationship between the federal government and the states. For those representatives who believe they can dodge a political bullet by voting for some of the bills in this series and voting against others, a word of caution. The people in your district, the people you represent, will ask you why you were inconsistent on the issue of states rights. If you vote for one, how will you justify opposing the others?

Mr. Chairman, members of the committee, I urge you to begin by voting against SJR 3.

Thank you.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State/Federal Relations

DATE 1/31/95

BILL NO. SJ 3

SPONSOR(S) Sen. Steve Benedict

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Neal Ganser 32404 E. Frodoget Rd 132A	SELF	X	
Kamala Webb	self	X	
Roger Koopman	self	✓	
Don Dore	self	✓	
Don Judge	MT STATE AFL-CIO		X
Michael Fillion	MT Libertarian Party	-	
Laurie Koutnik	Christian Coalition	X	
Ed Capli	MISCA		X
Jim Jensen	WERC		X
Alette Randask	Eagle Forum	✓	
Chinkie Kaufman	Human Rights Net		✓
Synda Mortenson	Self	✓	
B. J Hunter	self	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

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